

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE NORTHERN DISTRICT OF OHIO  
3                   EASTERN DIVISION  
4       IN RE:    NATIONAL                   :   MDL No. 2804  
5       PRESCRIPTION OPIATE               :  
6       LITIGATION                         :   Case No. 17-md-2804  
7   :  
8       APPLIES TO ALL CASES               :   Hon. Dan A. Polster  
9   :  
10    :

8 HIGHLY CONFIDENTIAL

9 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

11 - - - -  
12 JANUARY 16, 2019  
13 - - - -

14 VIDEOTAPED DEPOSITION OF GEORGE CHUNDERLIK,  
15 taken pursuant to notice, was held at Marcus &  
16 Shapira, One Oxford Center, 35th Floor, Pittsburgh,  
17 Pennsylvania 15219, by and before Ann Medis,  
18 Registered Professional Reporter and Notary Public in  
19 and for the Commonwealth of Pennsylvania, on  
20 Wednesday, January 16, 2019, commencing at 9:04 a.m.

22 GOLKOW LITIGATION SERVICES  
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<p>1 A P P E A R A N C E S</p> <p>2 On behalf of Plaintiffs</p> <p>3 WAGSTAFF &amp; CARTMELL, LLP</p> <p>4 BY: THOMAS ROTTINGHAUS, ESQUIRE</p> <p>5 AND TYLER HUDSON, ESQUIRE</p> <p>6 4740 Grand Avenue, Suite 300</p> <p>7 Kansas City, Missouri 64112</p> <p>8 816.701.1100</p> <p>9 trottinghaus@wcllp.com</p> <p>10 thudson@wcllp.com</p> <p>11</p> <p>12 On behalf of Defendant AmerisourceBergen Drug Corporation</p> <p>13 (By Phone/Livestream)</p> <p>14 REED SMITH LLC</p> <p>15 BY: BRIAN HIMMEL, ESQUIRE</p> <p>16 Reed Smith Centre</p> <p>17 225 Fifth Avenue</p> <p>18 Pittsburgh, Pennsylvania 15222</p> <p>19 412.288.3131</p> <p>20 bhimmel@reedsmith.com</p> <p>21 On behalf of Defendant Cardinal Health, Inc.</p> <p>22 PIETRAGALLO GORDON ALFANO BOSICK &amp; RASPANTI, LLP</p> <p>23 BY: JENNIFER BOURIAT, ESQUIRE</p> <p>24 One Oxford Centre, 38th Floor</p> <p>25 301 Grant Street</p> <p>Pittsburgh, Pennsylvania 15219</p> <p>412.263.2000</p> <p>jhb@pietragallos.com</p> <p>On behalf of Defendants Endo Pharmaceuticals, Endo Health Solutions and Par Pharmaceuticals</p> <p>(By phone/Livestream)</p> <p>ARNOLD &amp; PORTER KAYE SCHOLER LLP</p> <p>BY: SEAN MCCORMICK, ESQUIRE</p> <p>601 Massachusetts Avenue, NW</p> <p>Washington, DC 20001-37453</p> <p>202.942.5743</p> <p>sean.mccormick@arnoldporter.com</p>	<p>1 * I N D E X *</p> <p>2 GEORGE CHUNDERLIK PAGE</p> <p>3 EXAMINATION BY MR. ROTTINGHAUS 8</p> <p>4 EXAMINATION BY MR. HUDSON 163, 284, 305</p> <p>5 EXAMINATION BY MR. KOBRIN 254, 301</p> <p>6 * INDEX OF HBC-CHUNDERLIK EXHIBITS *</p> <p>7 NO. DESCRIPTION PAGE</p> <p>8 Exhibit 1 George Chunderlik LinkedIn profile 11</p> <p>9</p> <p>10 Exhibit 2 Giant Eagle Retail Operations - 18</p> <p>11 Pharmacy Operations 11/13/14</p> <p>12 org chart</p> <p>13 HBC_MDL00002216</p> <p>14 Exhibit 3 CFR Part 1301.74 from DEA website 85</p> <p>15 P1.47 - P1.47.2</p> <p>16</p> <p>17 Exhibit 4 DEA Dear Registrant 6/12/12, 78</p> <p>18 6/12/12, 12/27/07, 2/7/07, 9/27/06</p> <p>19 letters</p> <p>20 ABDCMDL00269683 - 00269694</p> <p>21 Exhibit 5 Meeting invitation for 5/24/13, 88</p> <p>22 from J. Millward to G. Carlson,</p> <p>23 et al., subject: CSMP Questionnaire</p> <p>24 Complete Response</p> <p>25 HBC_MDL00144314 - 00144322</p> <p>Exhibit 6 Email, 8/22/13, from S. Voyten to 94</p> <p>J. Millward, et al., subject: FW:</p> <p>CVS News Story</p> <p>HBC_MDL00154265 - 00154266</p> <p>Exhibit 7 Email, 12/13/13, from J. Millward 96</p> <p>to J. Hurley, et al., subject:</p> <p>Compliance Issues HBC Whse, attaching</p> <p>presentations given at DEA Distributor</p> <p>Conference</p> <p>HBC_MDL00136141 - 000136213</p> <p>Exhibit 8 Email, 5/1/12, from A. Mollica 109</p> <p>to G. Chunderlik, subject: FW:</p> <p>2012 Anda Supply Chain Symposium</p> <p>HBC_MDL00064379 - 00064441</p>
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<p>1 A P P E A R A N C E S (Continued)</p> <p>2 On behalf of Defendant HBC Service Company</p> <p>3 MARCUS &amp; SHAPIRA, LLP</p> <p>4 BY: JOSHUA A. KOBRIN, ESQUIRE</p> <p>5 AND ROBERT M. BARNES, ESQUIRE</p> <p>6 One Oxford Centre, 35th Floor</p> <p>7 Pittsburgh, Pennsylvania 15219</p> <p>8 412.471.3490</p> <p>9 jkobrin@marcus-shapira.com</p> <p>10 rbarnes@marcus-shapira.com</p> <p>11</p> <p>12 On behalf of Defendant McKesson Corporation</p> <p>13 COVINGTON &amp; BURLING, LLP</p> <p>14 BY: RAJ PAUL, ESQUIRE</p> <p>15 One CityCenter</p> <p>16 850 Tenth Street, NW</p> <p>17 Washington, DC 20001-4956</p> <p>18 202.662.5807</p> <p>19 rpaul@cov.com</p> <p>20 On behalf of Defendant Walmart</p> <p>21 (By phone/Livestream)</p> <p>22 JONES DAY</p> <p>23 BY: ALEXANDRA J. WOLTER, ESQUIRE</p> <p>24 555 South Flower Street</p> <p>25 Fiftieth Floor</p> <p>Los Angeles, California 90071</p> <p>213.243.2651</p> <p>awolter@jonesday.com</p> <p>Also present</p> <p>Adam Balenciaga, legal videographer</p>	<p>1 * INDEX OF HBC-CHUNDERLIK EXHIBITS (Continued) *</p> <p>2 NO. DESCRIPTION PAGE</p> <p>3 Exhibit 9 Email, 1/9/13, from G. Chunderlik 115</p> <p>4 to F. Bencivengo, et al., subject:</p> <p>5 Narcotic Audit Application, with</p> <p>6 attachments</p> <p>7 HBC_MDL00041837 - 000041850</p> <p>8</p> <p>9 Exhibit 10 Email chain, 8/20/15, from G. 119</p> <p>10 Carlson to J. Jenson, et al.,</p> <p>11 subject: FW: Thrifty White Notes</p> <p>12 HBC_MDL00069566 - 00069571</p> <p>13 Exhibit 11 20131030_Daily_HBC_Controls 131</p> <p>14 HBC_MDL00002348</p> <p>15</p> <p>16 Exhibit 12 Email chain, 11/25/13, from T. 149</p> <p>17 Roahrig to J. Millward, subject: FW:</p> <p>18 Daily HBC Suspicious Purchasing</p> <p>19 Report</p> <p>20 HBC_MDL00094599 - 00094600</p> <p>21</p> <p>22 Exhibit 13 Email chain, 1/10/14, from T. 157</p> <p>23 Roahrig to J. Millward, subject: RE:</p> <p>24 Daily HBC Suspicious Purchasing</p> <p>25 Report - 01/09/14</p> <p>HBC_MDL00039223</p> <p>Exhibit 14 Email, 8/28/15, from J. Millward to 158</p> <p>E. Hart, et al., subject: 30-010 -</p> <p>Inventory Control - Suspicious Order</p> <p>Policy FINAL.docx, attaching 30-010 -</p> <p>Inventory Control - Suspicious Order</p> <p>Policy FINAL.docx</p> <p>HBC_MDL00169475 - 00169477</p> <p>Exhibit 15 Email chain, 1/15/16, from G. 161</p> <p>Chunderlik to J. Millward, subject:</p> <p>FW: Daily HBC Suspicious Purchasing</p> <p>Report - 01/14/16, attaching</p> <p>20160114_Daily_HBC_Controls_W7.xlsx</p> <p>HBC_MDL00057182 - 00057186</p>

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<p style="text-align: right;">Page 7</p> <p>1 PROCEEDINGS</p> <p>2 ----</p> <p>3 THE VIDEOGRAPHER: We are now on the</p> <p>4 record. My name is Adam Balenciaga for Golkow</p> <p>5 Litigation Services. Today's date is January 16,</p> <p>6 2019, and the time is 9:04 a.m.</p> <p>7 This video deposition is being held at</p> <p>8 Marcus &amp; Shapira, LLP, One Oxford Centre, 35th</p> <p>9 Floor, Pittsburgh, PA 15219, in the matter of</p> <p>10 National Prescription Opiate Litigation,</p> <p>11 MDL No. 2804, for the United States District Court</p> <p>12 for the Northern District of Ohio, Eastern</p> <p>13 Division.</p> <p>14 The deponent is George Chunderlik.</p> <p>15 All counsel will be noted on the stenographic</p> <p>16 record. Will all counsel identify themselves.</p> <p>17 MR. ROTTINGHAUS: This is Tom</p> <p>18 Rottinghaus and Ty Hudson on behalf of the</p> <p>19 plaintiffs.</p> <p>20 MS. BOURIAT: Jennifer Bouriat from</p> <p>21 Pietragallo on behalf of Cardinal.</p> <p>22 MR. PAUL: Raj Paul of Covington &amp;</p> <p>23 Burling on behalf of McKesson.</p> <p>24 MR. BARNES: Robert Barnes, Marcus &amp;</p> <p>25 Shapira, on behalf of HBC Service Company.</p>	<p style="text-align: right;">Page 9</p> <p>1 Q. Would you please go ahead and introduce</p> <p>2 yourself for us.</p> <p>3 A. Yes. My name is George Chunderlik.</p> <p>4 Q. Mr. Chunderlik, you currently still work</p> <p>5 for what's known as Giant Eagle?</p> <p>6 A. I do, yes.</p> <p>7 Q. We're going to be probably sitting here</p> <p>8 for a few hours today, and our goal is not to</p> <p>9 harass you in any respect, but we're going to have</p> <p>10 a lot of documents we're going to be asking you to</p> <p>11 look at at various points in time.</p> <p>12 It's going to be very important for us to</p> <p>13 make sure that we are communicating. In other</p> <p>14 words, I want you to make sure you're</p> <p>15 understanding my questions I ask you today, and</p> <p>16 certainly I want to make sure I give you an</p> <p>17 opportunity to completely respond to any questions</p> <p>18 I ask.</p> <p>19 So if I interrupt you at any point in time</p> <p>20 before you're finished, I want you to please stop</p> <p>21 me and let me know you're not finished so that I</p> <p>22 can give you an opportunity to finish your answer.</p> <p>23 Okay?</p> <p>24 A. Okay.</p> <p>25 Q. You understand that you have just taken</p>

<p style="text-align: right;">Page 10</p> <p>1 an oath to tell the truth just like the oath you  2 would take if you were in a courtroom when this  3 case goes to trial?  4 A. Right.  5 Q. It's my understanding that you may not  6 be available at the time of trial to come testify  7 live, so I assume you also understand that you're  8 being videotaped here today in case you're unable  9 to testify live so that, if necessary, portions of  10 your testimony can be played to the court and jury  11 at the time of trial.  12 A. I do.  13 Q. There are going to be times when I  14 probably ask you if you can give me a "yes" or  15 "no" answer to a question. You may not be able to  16 do that all the time. That's fine. If you're  17 able to, I want you to do so. But if not, just  18 tell me why you can't. And I'm going to certainly  19 give you a chance to explain. Okay?  20 A. Okay.  21 Q. Now, you're here with counsel today?  22 A. I am, yes.  23 Q. We don't get to hear what you and your  24 attorneys talked about. So my question isn't  25 intended to delve into that issue. But I'm</p>	<p style="text-align: right;">Page 12</p> <p>1 someone is allowed to basically put their resumé  2 online for individuals to see if they wish to do  3 so.  4 A. Yes.  5 Q. And that's what you have done  6 voluntarily?  7 A. Yes.  8 Q. It's my understanding from looking at  9 Exhibit 1 that you have been employed by the Giant  10 Eagle or HBC entity for at least, I guess, 11  11 years now.  12 A. Yes; that's correct.  13 Q. Under experience on Exhibit 1, it says  14 manager, pharmacy training and compliance.  15 A. That's correct.  16 Q. Let's kind of back up to before Giant  17 Eagle. I see that you went to college and  18 finished with a bachelor of science in pharmacy in  19 approximately 1980.  20 A. That is correct, yes.  21 Q. Tell us from 1980 until 2008 what you  22 did.  23 A. From 1980, starting in 1980, my first  24 job in pharmacy as a pharmacist was with People's  25 Drug in Maryland, Langley Park, Maryland. For</p>
<p style="text-align: right;">Page 11</p> <p>1 wondering how much time approximately have you  2 spent getting ready for your deposition?  3 A. Approximately two days, 8-hour, 9-hours  4 days getting prepared.  5 Q. And then I assume that you've taken an  6 opportunity to at least look at some of the  7 documents that you might get asked about today?  8 A. I have, yes.  9 (HBC-Chunderlik Exhibit 1 was marked.)  10 BY MR. ROTTINGHAUS:  11 Q. One of the first things I want to ask  12 you about is your background with the company. We  13 have marked as Plaintiffs' Exhibit No. 1 a  14 document that I believe is in front of you. And I  15 will represent to you this is not a document that  16 was provided to us by Giant Eagle or HBC  17 warehouse. It's a document we pulled off of the  18 internet through a site called LinkedIn, which I'm  19 assuming you are familiar with.  20 A. I am familiar with LinkedIn, yes.  21 Q. Those of us here who are old enough  22 probably used to refer to someone's background as  23 their CV or resumé.  24 A. Correct.  25 Q. On LinkedIn it's my understanding that</p>	<p style="text-align: right;">Page 13</p> <p>1 People's I managed one store. I was a staff  2 pharmacist at the first store that I was employed  3 with People's. Then I moved to a pharmacy  4 management position.  5 I left People's in -- I believe it was  6 February of 1982, and I actually went to work for  7 Giant Eagle as a pharmacist at that point in time.  8 So from 1982 up until 1990, I was a pharmacist  9 working at the store. I managed three different  10 pharmacies for Giant Eagle during that period of  11 time.  12 In 1990 I did take a position, an  13 office-based position in our pharmacy services  14 area where I started out doing training. We were  15 putting in a new software program, and I was doing  16 training of pharmacists and pharmacy personnel on  17 that program.  18 And then in 1992 after the rollout was  19 finished, I stayed in the corporate office and was  20 mainly in an administrative position in support in  21 the pharmacy services area, support for managed  22 care, support for our retail pharmacists, did a  23 lot of computer training as we had new pharmacists  24 and new team members come on. So I was in that  25 position until March of 2003.</p>

<p style="text-align: right;">Page 14</p> <p>1 At that point in time, I did leave Giant  2 Eagle, and I took a job with a consulting firm in  3 Pittsburgh called Pharmacy Healthcare Solutions.  4 It was a company that performed consulting  5 services in the retail pharmacy industry, in the  6 pharmaceutical industry and in the managed care  7 industry.  8 I was with PHSI for approximately five years.  9 And that brought me to my current position with  10 Giant Eagle. I actually left PHSI in June of 2008  11 when I came back to Giant Eagle.  12 At that time I was in a training capacity. I  13 was managing some of our pharmacy trainers that  14 were responsible for training new pharmacy  15 technicians that came on with Giant Eagle at that  16 point. That's where in my LinkedIn profile where  17 manager of pharmacy training came into being. It  18 wasn't really until -- and I really haven't  19 updated my LinkedIn profile with my official title  20 that I have right now as senior manager of  21 pharmacy compliance.  22 Q. What year did you take on the senior  23 manager of pharmacy compliance?  24 A. I actually became the senior manager of  25 pharmacy compliance in -- I believe it was about</p>	<p style="text-align: right;">Page 16</p> <p>1 about your position as a consultant between 2003  2 and 2008. I believe you said it was -- the  3 initials are PHSI?  4 A. Yes, PHSI, Pharmacy Healthcare  5 Solutions.  6 Q. Thank you. In that role, did you  7 provide any consulting expertise in the area of  8 compliance?  9 A. No.  10 Q. You probably understand, but we should  11 probably make sure we're communicating when I use  12 the word compliance. I assume you agree that any  13 pharmacist has to comply with certain laws in  14 order to be a pharmacist.  15 A. Yes.  16 MR. KOBRIN: Object to form.  17 BY MR. ROTTINGHAUS:  18 Q. And similarly, HBC warehouse as a  19 distributor between 2009 and 2014 also had an  20 obligation to comply with certain laws and  21 regulations?  22 A. Yes.  23 Q. Between 2009 and 2014, did you have any  24 role in managing compliance for HBC warehouse?  25 A. I didn't manage compliance, but I was</p>
<p style="text-align: right;">Page 15</p> <p>1 the May or June timeframe of 2016. And that  2 official role was senior manager of pharmacy  3 compliance.  4 Q. I'm going to have some follow-up  5 questions about that general background. Are you  6 finished with your general background?  7 A. Yes, yes.  8 Q. I appreciate it. So it's my  9 understanding you actually worked in the State of  10 Maryland as a staff pharmacist when you first got  11 out of school.  12 A. That's correct.  13 Q. Before I forget, have you ever worked as  14 a pharmacist in the State of Ohio?  15 A. I do not have a license.  16 Q. And I assume you have worked as a staff  17 pharmacist or had a license as a pharmacist in the  18 State of Pennsylvania?  19 A. Yes.  20 Q. Any other states?  21 A. Maryland. I still maintain my Maryland  22 license.  23 Q. Those two states?  24 A. Yes.  25 Q. Let me ask you a couple of questions</p>	<p style="text-align: right;">Page 17</p> <p>1 involved in some compliance activities during that  2 period of time.  3 Q. We'll be talking about some of those,  4 and we'll come back to that then.  5 So would it be fair to say that prior to  6 coming back to Giant Eagle in 2008, you did not  7 have any role in overseeing or managing compliance  8 for any entity or company?  9 A. I did not.  10 Q. Let's talk a little bit about what you  11 have been doing for Giant Eagle and the HBC  12 warehouse since coming back to Giant Eagle in  13 2008. And I appreciate the fact that you had been  14 with them before, but my questions now are going  15 to be focusing on that timeframe, from 2008 until  16 the present. And then I might even limit it a  17 little bit more than that at times. Okay?  18 Can you tell us what year you believe you  19 started to provide some role for HBC warehouse in  20 the realm of compliance?  21 MR. KOBRIN: Object to form.  22 THE WITNESS: My recollection would be  23 somewhere in the latter quarter, calendar quarter  24 of 2012.  25</p>



<p style="text-align: right;">Page 18</p> <p>1 BY MR. ROTTINGHAUS:</p> <p>2 Q. And what was it in the latter part of</p> <p>3 2012, to the best of your memory, that caused you</p> <p>4 to take on some role in compliance for HBC</p> <p>5 warehouse?</p> <p>6 A. It was just part of my role with Giant</p> <p>7 Eagle, because I did have some knowledge of</p> <p>8 business operations and those types of things.</p> <p>9 Q. You certainly had some familiarity with</p> <p>10 what a pharmacist individually has to do to comply</p> <p>11 with laws and keep his or her license for being a</p> <p>12 pharmacist?</p> <p>13 A. Yes.</p> <p>14 Q. At some point in time in 2012, did you</p> <p>15 undergo additional training or some type of</p> <p>16 education to allow you to gain a better</p> <p>17 understanding of what laws or regulations from a</p> <p>18 state or federal level that HBC warehouse as a</p> <p>19 distributor needed to follow?</p> <p>20 A. Nothing, no formal education in that</p> <p>21 area.</p> <p>22 (HBC-Chunderlik Exhibit 2 was marked.)</p> <p>23 BY MR. ROTTINGHAUS:</p> <p>24 Q. Let's look for a minute at what's been</p> <p>25 marked as Exhibit 2. You'll see we've got little</p>	<p style="text-align: right;">Page 20</p> <p>1 Pharmacy Operations as of November 13, 2014; is</p> <p>2 that correct?</p> <p>3 A. Yes.</p> <p>4 Q. You may be able to help me. Do you know</p> <p>5 whether the titles and the individuals that are</p> <p>6 listed on Exhibit 2 deal primarily with Giant</p> <p>7 Eagle or with HBC warehouse, or is it both?</p> <p>8 A. It would be both.</p> <p>9 Q. Make sure we're communicating. It's my</p> <p>10 understanding that HBC warehouse is affiliated</p> <p>11 with Giant Eagle obviously; correct?</p> <p>12 A. That's correct.</p> <p>13 Q. When you were providing services for</p> <p>14 your employer in the role of compliance, was it</p> <p>15 your understanding that part of that role was to</p> <p>16 make sure that HBC warehouse was indeed complying</p> <p>17 with state and federal laws?</p> <p>18 A. Yes.</p> <p>19 Q. Now, we see at the bottom left hand of</p> <p>20 this document your name, and you're in the middle</p> <p>21 box; is that right?</p> <p>22 A. That's correct.</p> <p>23 Q. I'm not exactly sure if I'm reading this</p> <p>24 correctly, but your title at least as of 2014 was</p> <p>25 manager of compliance?</p>
<p style="text-align: right;">Page 19</p> <p>1 stickers. And I apologize. Some of them are a</p> <p>2 little hard to see probably, but I think on the</p> <p>3 bottom right-hand corner, you'll see what we</p> <p>4 marked as Exhibit 2.</p> <p>5 A. Yes.</p> <p>6 Q. We've also got it up on the screen for</p> <p>7 you, I think. Do you see it on the screen?</p> <p>8 A. Yes.</p> <p>9 Q. I want you to know we're trying to make</p> <p>10 sure we have the same document on that screen for</p> <p>11 everyone to see as the same hard copy that's in</p> <p>12 front of you. And you're welcome to look at</p> <p>13 either one. Okay?</p> <p>14 A. Okay.</p> <p>15 Q. There may be times I ask the individual</p> <p>16 to my right here to highlight certain things on</p> <p>17 some of the documents really just to help us kind</p> <p>18 of make sure we're following the same thing. You</p> <p>19 see your name on this exhibit, I assume.</p> <p>20 A. I do, yes.</p> <p>21 Q. You probably looked at Exhibit 2 at some</p> <p>22 point in getting ready of your deposition.</p> <p>23 A. I have.</p> <p>24 Q. You will see at the top where it says</p> <p>25 Retail Operations under the Giant Eagle. It says</p>	<p style="text-align: right;">Page 21</p> <p>1 A. Yes.</p> <p>2 Q. And then the box right above yours, it</p> <p>3 says senior manager of pharmacy, quality and</p> <p>4 compliance, and it has the name of Mr. Millward.</p> <p>5 A. That's correct.</p> <p>6 Q. Mr. Millward has also given testimony in</p> <p>7 this case, so we have a general understanding as</p> <p>8 to his role in the company as well. I'm not sure</p> <p>9 I asked him this exactly, so I'm going to ask you.</p> <p>10 Was it your understanding that in some</p> <p>11 capacity Mr. Millward oversaw what you did or was</p> <p>12 your supervisor, or is that an incorrect</p> <p>13 statement?</p> <p>14 A. That's correct.</p> <p>15 Q. So in some way he was someone you would</p> <p>16 report to or be obligated to report to if</p> <p>17 necessary?</p> <p>18 A. Correct, yes.</p> <p>19 Q. And then we've also had the opportunity</p> <p>20 to take the deposition and obtain testimony from</p> <p>21 Greg Carlson, who I understand is no longer with</p> <p>22 the company, but had been with the company back in</p> <p>23 2014; is that right?</p> <p>24 A. That is correct.</p> <p>25 Q. And was Mr. Carlson also someone you</p>

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1 would report to in your role as compliance?  
 2 A. Yes.  
 3 Q. Was there anyone else you reported to  
 4 with respect to your duties in managing compliance  
 5 for HBC warehouse besides Mr. Millward and  
 6 Mr. Carlson?  
 7 MR. KOBRIN: Object to form. At this  
 8 time?  
 9 BY MR. ROTTINGHAUS:  
 10 Q. He makes a good point. Let me try to  
 11 narrow this down a little bit. We're going to be  
 12 talking specifically at times about a timeframe of  
 13 2009 to 2014. And I'll tell you why. At that  
 14 point in time, it's our understanding that HBC  
 15 warehouse was distributing to its 200 or so  
 16 pharmacies certain hydrocodone combination  
 17 products.  
 18 Is that your understanding as well?  
 19 A. Yes.  
 20 Q. At that time they were Schedule III  
 21 substances; correct?  
 22 A. Yes.  
 23 Q. It's my understanding they're now  
 24 Schedule II; is that right?  
 25 A. That's correct.

Page 23

1 Q. Does the timeframe of 2009 to 2014 sound  
 2 correct to you when I reference that being the  
 3 timeframe that HBC warehouse was distributing  
 4 hydrocodone combination products to the Giant  
 5 Eagle pharmacies?  
 6 A. Repeat that one more time.  
 7 Q. Sure. I mentioned 2009 to 2014 being  
 8 the timeframe in which HBC warehouse was  
 9 distributing hydrocodone combination products to  
 10 the Giant Eagle pharmacies.  
 11 Do you have any reason to disagree that  
 12 that's the appropriate timeframe?  
 13 A. To my knowledge, in the 2009 timeframe,  
 14 I didn't really have a lot of interaction at the  
 15 warehouse. So I can't attest to that exactly,  
 16 only from the timeframe that I would be familiar  
 17 with.  
 18 Q. Let's just cover that now. What  
 19 timeframe -- and, again, you know you're under  
 20 oath, I do, and I don't want you to say something  
 21 that you think is incorrect. So if you're not  
 22 sure, you can tell me.  
 23 But what timeframe do you believe you had  
 24 some responsibility for overseeing compliance or  
 25 managing compliance for the HBC warehouse?

Page 24

1 MR. KOBRIN: Object to form.  
 2 THE WITNESS: Starting in the latter  
 3 part of 2012, at the last quarter of the calendar  
 4 year, around that timeframe.  
 5 BY MR. ROTTINGHAUS:  
 6 Q. Would it be fair to say that prior to  
 7 the latter part of 2012, to the best of your  
 8 memory and your testimony here today, you did not  
 9 have any role in managing compliance for the HBC  
 10 warehouse?  
 11 A. Prior to the 2012 timeframe?  
 12 Q. Yes.  
 13 A. That would that be correct.  
 14 Q. Do you know who did have that  
 15 responsibility prior to the latter part of 2012?  
 16 A. It would be my belief that some part of  
 17 it fell to Joe Millward.  
 18 MR. KOBRIN: Don't speculate if you  
 19 don't know.  
 20 BY MR. ROTTINGHAUS:  
 21 Q. Prior to the latter part of 2012, was  
 22 compliance even a part of your title while you  
 23 were at Giant Eagle and HBC?  
 24 A. No, because I actually started out as  
 25 the manager of pharmacy training. When compliance

Page 25

1 came into play was in that part of 2012 and that  
 2 quarter.  
 3 Q. Do you have any memory as to why  
 4 pharmacy came into play in that latter part of  
 5 2012?  
 6 A. I don't recall exactly, no.  
 7 Q. Someone -- well, let me ask you this:  
 8 Do you remember if you approached the company and  
 9 said you wanted to have a role in compliance, or  
 10 was someone at the company asking you to take on a  
 11 role of compliance?  
 12 MR. KOBRIN: Object to form.  
 13 BY MR. ROTTINGHAUS:  
 14 Q. If you remember.  
 15 A. It would be more of coming to me.  
 16 Q. Do you remember who came to you and  
 17 asked you to assist with managing compliance for  
 18 the HBC warehouse in the latter part of 2012?  
 19 A. It would have been Anthony Mollica.  
 20 Q. Do you remember at that time what  
 21 Mr. Mollica's title was?  
 22 A. At that period of time, I believe he was  
 23 the vice-president of pharmacy operations.  
 24 Q. And that was a position that Mr. Carlson  
 25 ultimately took over at some point in time as

<p style="text-align: right;">Page 26</p> <p>1 well?</p> <p>2 A. That is correct.</p> <p>3 Q. Do you remember why Mr. Mollica wanted</p> <p>4 you to take on the role of manager of compliance</p> <p>5 in the latter part of 2012?</p> <p>6 A. Not specifically. I had some prior</p> <p>7 involvement in accreditations for other areas of</p> <p>8 Giant Eagle, and it seemed like it would be a good</p> <p>9 fit for me.</p> <p>10 Q. What involvement in accreditations did</p> <p>11 you have prior to the latter part of 2012 for the</p> <p>12 Giant Eagle system?</p> <p>13 A. Part of our -- part of the products that</p> <p>14 we do distribute from our pharmacies are certain</p> <p>15 items of durable medical equipment, specifically</p> <p>16 blood glucose monitors, diabetes test strips,</p> <p>17 lancets for finger blood draws and things like</p> <p>18 that. That falls under the durable medical</p> <p>19 equipment portion of Medicare.</p> <p>20 And at that period of time, we had become</p> <p>21 accredited to be able to handle those types of</p> <p>22 products to distribute to Medicare Part B</p> <p>23 patients. And I was very involved in procuring</p> <p>24 and helping our company procure that</p> <p>25 accreditation.</p>	<p style="text-align: right;">Page 28</p> <p>1 Q. At the office you would try to read up?</p> <p>2 A. Correct.</p> <p>3 Q. Did the company make available to you</p> <p>4 any consultants or experts to help you better</p> <p>5 understand what the obligations would be for HBC</p> <p>6 warehouse in order to comply with the Controlled</p> <p>7 Substances Act when you became the manager of</p> <p>8 compliance in the latter part of 2012?</p> <p>9 A. No.</p> <p>10 Q. Did you ask for any additional resources</p> <p>11 or training?</p> <p>12 A. I knew that I could rely on other</p> <p>13 individuals to help me if I had any questions in</p> <p>14 those areas.</p> <p>15 Q. You say you did a lot of reading. Do</p> <p>16 you remember what it was you decided you should</p> <p>17 read in order to better acquaint yourself with the</p> <p>18 obligations to comply with the Controlled</p> <p>19 Substances Act in the latter part of 2012?</p> <p>20 A. The DEA pharmacists manual.</p> <p>21 Q. I'm sorry. I'm going to stop you, and I</p> <p>22 don't mean to interrupt, but I lost you when you</p> <p>23 gave me that abbreviation.</p> <p>24 A. The DEA pharmacists manual, and I also</p> <p>25 reviewed the distributor manual as well.</p>
<p style="text-align: right;">Page 27</p> <p>1 Q. So you developed some degree of</p> <p>2 expertise in that specific area?</p> <p>3 A. Yes.</p> <p>4 Q. So it seemed like a good fit at least to</p> <p>5 see if you might be willing to take on a greater</p> <p>6 role in compliance for the company?</p> <p>7 A. Yes.</p> <p>8 Q. You understand that as a distributor of</p> <p>9 hydrocodone combination products or controlled</p> <p>10 substances between 2009 and 2014, that HBC</p> <p>11 warehouse had an obligation to comply with the</p> <p>12 Controlled Substances Act and all of its</p> <p>13 provisions?</p> <p>14 A. Yes.</p> <p>15 Q. Did you ever undergo any training or</p> <p>16 seminars or education either at or prior to the</p> <p>17 latter part of 2012 to help you better understand</p> <p>18 what obligations HBC warehouse might have in order</p> <p>19 to comply with the Controlled Substances Act?</p> <p>20 A. Nothing specific.</p> <p>21 Q. When you say nothing specific, it causes</p> <p>22 me as an attorney to want to ask: Was there</p> <p>23 anything more general then that you received in</p> <p>24 terms of training or knowledge?</p> <p>25 A. I did a lot of reading.</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. Do you remember who published the</p> <p>2 distributor manual that you're talking about?</p> <p>3 A. It would have been the Drug Enforcement</p> <p>4 Agency, the DEA.</p> <p>5 Q. And is it the best of your memory that</p> <p>6 you became more interested in acquainting yourself</p> <p>7 with those obligations when you did agree to take</p> <p>8 on the role of manager of compliance for the HBC</p> <p>9 warehouse in the latter part of 2012?</p> <p>10 A. Yes.</p> <p>11 Q. Because you knew it was important that</p> <p>12 HBC warehouse comply with the law?</p> <p>13 A. Yes.</p> <p>14 Q. Do you remember attending any seminars</p> <p>15 or continuing education classes or any meetings to</p> <p>16 in any way educate yourself or better acquaint</p> <p>17 yourself with the obligations of HBC warehouse to</p> <p>18 comply with the Controlled Substances Act at or</p> <p>19 near the time you took over as manager of</p> <p>20 compliance?</p> <p>21 A. Not at that point in time.</p> <p>22 Q. At at some point in time you did do</p> <p>23 that?</p> <p>24 A. I did.</p> <p>25 Q. Do you remember when?</p>



<p style="text-align: right;">Page 30</p> <p>1 A. The early part -- well, the mid 2016 2 timeframe. 3 Q. Would it be fair to say that prior to 4 the mid 2016 timeframe, you had not gone to any 5 specific conferences or DEA meetings or any 6 educational seminars or something similar to 7 better acquaint yourself or better educate 8 yourself about the obligations of HBC warehouse to 9 comply with the Controlled Substances Act? 10 A. Repeat the first part. 11 Q. Sure. Would it be fair to say that 12 prior to 2016, you had not gone to any 13 conferences, meetings or seminars to better 14 acquaint yourself with the obligations of HBC 15 warehouse to comply with the Controlled Substances 16 Act? 17 A. Yes. 18 MR. KOBRIN: Object to form. Don't say 19 anything with regard to any meetings you may have 20 had or any conferences you may have discussed or 21 anything that might be privileged you had with 22 counsel or anything like that. 23 BY MR. ROTTINGHAUS: 24 Q. I want you to listen to your attorney 25 certainly, but just to make sure I understand, I</p>	<p style="text-align: right;">Page 32</p> <p>1 Between 2009 and 2014, can you think of 2 anyone who would fall, I guess, under you or under 3 your title or under your supervision for HBC 4 warehouse in terms of making sure that HBC was 5 complying with its obligations under state and 6 federal laws? 7 A. No. 8 MR. KOBRIN: Object to form. 9 BY MR. ROTTINGHAUS: 10 Q. The answer is "no"? 11 A. "No." 12 MR. KOBRIN: You're asking only somebody 13 under him at HBC? 14 BY MR. ROTTINGHAUS: 15 Q. In that mid to late -- you did say it 16 was mid to late 2012 when you took on the 17 additional role of manager of compliance? 18 A. Yes. 19 Q. When you took on that role, did you also 20 have other roles with the company, whether it be 21 Giant Eagle or HBC warehouse? 22 A. Yes. 23 Q. I want to get a better understanding of 24 what else you were doing for the HBC warehouse or 25 Giant Eagle system really from the time you came</p>
<p style="text-align: right;">Page 31</p> <p>1 don't want you to tell me what it entailed. 2 But at any point in time between 2012 and 3 2016 when you took on the role of manager of 4 compliance for HBC warehouse, do you recall 5 meeting with any individuals, whether it be 6 attorneys or consultants, to discuss the 7 obligations of HBC warehouse to comply with the 8 Controlled Substances Act? 9 A. No. 10 Q. Looking at Exhibit 2, which again is the 11 chart that we were provided as of November 2014 12 for the Giant Eagle system, looking at that chart, 13 can you think of anyone who actually would maybe 14 fall under you or under your title in the 15 compliance area for HBC warehouse that's not 16 listed on here? 17 A. During this timeframe? 18 Q. Yes. 19 A. No. 20 Q. Let's broaden that timeframe from 2009 21 to 2014. And, again, I reference that timeframe 22 because it's our understanding that that is the 23 timeframe when HBC warehouse was distributing 24 hydrocodone combination products to its 200 or so 25 pharmacies. Okay?</p>	<p style="text-align: right;">Page 33</p> <p>1 back in 2008 to 2014. We talked about the fact 2 you got the title of manager of compliance. 3 A. Yes. 4 Q. What other titles or hats, for lack of a 5 better word, did you wear during that timeframe? 6 MR. KOBRIN: Object to form. 7 BY MR. ROTTINGHAUS: 8 Q. I want to make sure I'm being clear when 9 I say what other hats did you wear. Do you kind 10 of understand what I mean? What other obligations 11 did you have for the company? 12 A. Well, when I came back to Giant Eagle in 13 2008, I started in the pharmacy training 14 department where my responsibilities -- I had 15 supervision over -- we had 14 pharmacy trainers, 16 and there was another pharmacy training manager, 17 and we both had supervisory responsibilities over 18 seven pharmacy trainers. I had seven, and my 19 colleague had seven. 20 And we were responsible for supervising those 21 individuals in their daily activities in training 22 pharmacy technicians that came to Giant Eagle. I 23 was actually in that role from 2008 up until -- 24 even carrying over I had some of those 25 responsibilities even past the 2012 timeframe.</p>

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1 Q. Once that 2012 timeframe hit, it sounds  
 2 as if you were taking on the duties of manager of  
 3 compliance.  
 4 A. Yes.  
 5 Q. In addition, you were still doing some  
 6 of the pharmacy training supervisory  
 7 responsibilities?  
 8 A. Correct, yes.  
 9 Q. You said that would be -- you would have  
 10 responsibility over seven different trainers?  
 11 A. Correct.  
 12 Q. Who were then, in turn, responsible for  
 13 training pharmacists around the retail pharmacies?  
 14 A. Pharmacy technicians.  
 15 Q. Any other job responsibilities you  
 16 recall having during the timeframe between 2008  
 17 and all the way up to 2014?  
 18 A. Well, I did become more involved as  
 19 pharmacy -- the manager of pharmacy compliance in  
 20 that 2012 timeframe. It kind of overlaps there.  
 21 Q. And really from a purely technical job  
 22 responsibility, it would be fair to say that prior  
 23 to mid to late 2012, you did not have any  
 24 responsibility for overseeing -- I'm sorry.  
 25 Would it be fair to say that prior to that

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1 mid to late 2012 timeframe, you did not have any  
 2 technical responsibility for managing compliance  
 3 for HBC warehouse?  
 4 A. That's correct.  
 5 Q. When we talk about the pharmacy training  
 6 and you said the pharmacy technicians were  
 7 ultimately overseen by the people you were  
 8 supervising and training; is that right?  
 9 A. Repeat.  
 10 Q. Let me back up. Just to make sure --  
 11 you probably have figured this out. I'm not a  
 12 pharmacist.  
 13 From that 2008 to 2012 timeframe, when you  
 14 were overseeing and had supervisory responsibility  
 15 for pharmacy training, ultimately, that's training  
 16 individuals who were working in the Giant Eagle  
 17 retail pharmacies; correct?  
 18 A. Yes.  
 19 Q. This is not training individuals who  
 20 were working in the HBC warehouse?  
 21 A. That is correct.  
 22 Q. And I think you told me and I didn't  
 23 quite catch it, but I think you told me between  
 24 2008 and 200- -- up to the present time, you were  
 25 working -- your office was in the corporate

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1 headquarters for Giant Eagle.  
 2 A. That is correct.  
 3 Q. How much time were you spending in the  
 4 HBC pharmacy, the actual physical location? I'm  
 5 sorry.  
 6 How much time were you spending between 2012  
 7 and 2016 at the actual HBC warehouse?  
 8 A. I made occasional visits to the  
 9 warehouse.  
 10 Q. Help me understand what an occasional  
 11 visit means.  
 12 MR. KOBRIN: Object to form.  
 13 THE WITNESS: Maybe once or twice a  
 14 year.  
 15 BY MR. ROTTINGHAUS:  
 16 Q. How far drive-wise is the HBC warehouse  
 17 from the Giant Eagle headquarters where you  
 18 officed?  
 19 A. I would say approximately 40 miles.  
 20 Q. Let's focus the timeframe a little bit  
 21 tighter now. Let's talk about from mid 2012 until  
 22 October of 2014.  
 23 Can you say here today with confidence that  
 24 you had actually visited the HBC warehouse during  
 25 that timeframe?

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1 A. Yes.  
 2 Q. Do you know how many times?  
 3 A. My recollection would be once or twice.  
 4 Q. Between mid 2012 and October of 2014,  
 5 your best recollection is you visited the HBC  
 6 warehouse two times?  
 7 A. Once or twice. I can't recall exactly.  
 8 Q. Do you remember why you went there on  
 9 that one or two occasions?  
 10 A. On one occasion we were trying to become  
 11 VAWD accredited for our HBC warehouse and we had  
 12 to -- had actually two meetings with those folks  
 13 in preparation for VAWD accreditation.  
 14 Q. It's my understanding -- and remind me  
 15 what VAWD stands for. I know it's an acronym.  
 16 A. Yes. It's Vendor Accredited Wholesale  
 17 Distribution.  
 18 Q. And it's my understanding from speaking  
 19 with Mr. Carlson in his deposition that it was not  
 20 required for HBC warehouse to be VAWD accredited  
 21 in order to distribute controlled substances to  
 22 some of the states where it had retail pharmacies.  
 23 A. That's correct.  
 24 Q. But the State of Maryland, if my memory  
 25 is correct, at some point in time required VAWD

<p style="text-align: right;">Page 38</p> <p>1 accreditation?</p> <p>2 A. At some point in time, they did.</p> <p>3 MR. HUDSON: Can you just make sure I</p> <p>4 get a moment to object to form.</p> <p>5 BY MR. ROTTINGHAUS:</p> <p>6 Q. Regardless of when that took place, is</p> <p>7 it your best memory that you visited the HBC</p> <p>8 warehouse whenever Giant Eagle was working on</p> <p>9 making sure it could continue to distribute</p> <p>10 medications to the State of Maryland?</p> <p>11 MR. KOBRIN: Object to form.</p> <p>12 BY MR. ROTTINGHAUS:</p> <p>13 Q. I don't want to confuse you. Let me</p> <p>14 back up.</p> <p>15 At some point in time, Maryland required VAWD</p> <p>16 accreditation?</p> <p>17 A. Yes.</p> <p>18 Q. That's the best of your memory; right?</p> <p>19 A. Best of my memory, yes.</p> <p>20 Q. And that's when HBC warehouse decided it</p> <p>21 wanted to get the VAWD accreditation; correct?</p> <p>22 A. Yes.</p> <p>23 Q. And that's the timeframe in which you</p> <p>24 remember visiting the HBC warehouse?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 40</p> <p>1 you personally tried to make sure you understood</p> <p>2 what the accreditation criteria were.</p> <p>3 A. That is correct.</p> <p>4 Q. And indeed you did find out that in</p> <p>5 order to become accredited, HBC warehouse had to</p> <p>6 have certain policies and procedures in writing in</p> <p>7 place?</p> <p>8 A. Correct.</p> <p>9 Q. Now, at the time you remember visiting</p> <p>10 HBC warehouse on that one or two occasions between</p> <p>11 2012 and 2014, is it your memory that you were</p> <p>12 visiting the warehouse to make sure that certain</p> <p>13 policies or procedures were being followed?</p> <p>14 A. Not at that point in time.</p> <p>15 Q. What do you recall going to the</p> <p>16 warehouse for?</p> <p>17 A. It was the initial stages of looking</p> <p>18 over the requirements to determine even if this</p> <p>19 was something that we would want to pursue.</p> <p>20 Q. Ultimately, you decided it would be</p> <p>21 worthwhile to do so?</p> <p>22 A. At some point we did, yes.</p> <p>23 Q. And you did ultimately -- after 2014 you</p> <p>24 did obtain VAWD accreditation for the HBC</p> <p>25 warehouse?</p>
<p style="text-align: right;">Page 39</p> <p>1 Q. It was some reason you visited in order</p> <p>2 to assist in making sure the VAWD accreditation</p> <p>3 process took place?</p> <p>4 A. Yes.</p> <p>5 Q. Let's talk about VAWD accreditation for</p> <p>6 just a minute. It's my understanding that VAWD</p> <p>7 provides accreditation to distributors if they</p> <p>8 fulfill certain criteria for VAWD.</p> <p>9 A. Correct.</p> <p>10 Q. Is one of those criteria that</p> <p>11 distributors enact certain policies, procedures or</p> <p>12 protocols to be followed?</p> <p>13 MR. KOBRIN: Object to form. If you</p> <p>14 know.</p> <p>15 THE WITNESS: Correct.</p> <p>16 BY MR. ROTTINGHAUS:</p> <p>17 Q. That's one of the things when you were</p> <p>18 managing compliance, you had to at some point find</p> <p>19 out. If we want to become VAWD accredited so that</p> <p>20 we can continue distributing to the State of</p> <p>21 Maryland, I need to figure out or have somebody</p> <p>22 figure out what we need to do to get accredited;</p> <p>23 correct?</p> <p>24 A. Correct.</p> <p>25 Q. At some point in time it sounds as if</p>	<p style="text-align: right;">Page 41</p> <p>1 MR. KOBRIN: Object to form.</p> <p>2 THE WITNESS: No, we did not.</p> <p>3 BY MR. ROTTINGHAUS:</p> <p>4 Q. You did for the new Giant Eagle</p> <p>5 distribution center?</p> <p>6 A. Yes.</p> <p>7 Q. Actually, the HBC warehouse never did</p> <p>8 obtain VAWD accreditation; is that correct?</p> <p>9 A. That's correct.</p> <p>10 Q. We'll probably come back to that in a</p> <p>11 little bit. Let's talk for a minute just about</p> <p>12 policies and procedures in general. I think I</p> <p>13 told you we had the opportunity to ask</p> <p>14 Mr. Millward some questions. It was probably a</p> <p>15 few weeks ago now. And I've had an opportunity to</p> <p>16 rereview the testimony he gave under oath when he</p> <p>17 gave his deposition.</p> <p>18 It's my understanding that according to</p> <p>19 Mr. Millward, he was one of the individuals who</p> <p>20 had responsibility for making sure that policies</p> <p>21 or procedures would get drafted and ultimately</p> <p>22 approved for the HBC warehouse.</p> <p>23 Is that your memory as well?</p> <p>24 A. That's correct.</p> <p>25 Q. Were you also an individual who along</p>

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1 with Mr. Millward had responsibility for making  
2 sure that certain policies and procedures got  
3 drafted for the HBC warehouse?  
4 MR. KOBRIN: Object to form.  
5 THE WITNESS: That's correct.  
6 BY MR. ROTTINGHAUS:  
7 Q. Was there anyone else who had  
8 responsibility for doing so besides you and  
9 Mr. Millward?  
10 A. Not direct responsibility.  
11 Q. When I use the word policies and  
12 procedures, I understand or I've been told those  
13 can mean different things to different people. I  
14 don't mean to really use them interchangeably, but  
15 I'm not trying to be confusing either.  
16 Do you in your mind distinguish between a  
17 written policy and a written procedure?  
18 A. At times I do.  
19 Q. I want to make sure I understand how you  
20 classify a policy and how you classify a procedure  
21 so that we can make sure we're communicating well.  
22 I'm talking about policies that are in writing and  
23 procedures that are in writing. Okay?  
24 Let me ask you this: What might be a reason  
25 to put -- well, first of all, let me ask you:

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1 What do you or how do you define a policy, a  
2 written policy for a company?  
3 A. I look at written policies as being  
4 things that have to be followed 100 percent of the  
5 time.  
6 Q. Can you give us an example?  
7 A. Just in general, if a policy is written,  
8 and I use an example of if the policy says you  
9 cannot bring a weapon to work, if you bring a  
10 weapon to work, you would be automatically  
11 dismissed.  
12 Q. What about a procedure?  
13 A. A procedure could entail there's many  
14 different ways to get to the same point. A  
15 procedure in my mind is sometimes a standard  
16 operating procedure because there's many different  
17 ways that things can be done in certain  
18 situations. I look at a procedure as to be  
19 something that can be followed to get to a certain  
20 point.  
21 Q. Let me ask you this: If and when HBC  
22 warehouse wanted to draft a policy -- let me ask  
23 it this way instead. Let's back up.  
24 Certainly there are certain things that the  
25 law required HBC warehouse to do; correct?

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1 A. Correct.  
2 Q. If, and I'm saying if, HBC elected to  
3 draft a policy to provide guidance to its  
4 employees and personnel about following that law,  
5 you would indeed call it a policy and not a  
6 procedure?  
7 MR. KOBRIN: Object to form.  
8 THE WITNESS: I'm not quite sure.  
9 BY MR. ROTTINGHAUS:  
10 Q. Let me ask it a little differently. If  
11 HBC wanted to provide information to its personnel  
12 about certain laws that must be complied with as a  
13 distributor of controlled substances, would you as  
14 the person who had some responsibility for  
15 drafting policies and procedures elect to call  
16 that a policy or a procedure?  
17 MR. KOBRIN: Object to form.  
18 THE WITNESS: I don't know if there were  
19 any hard and fast rules as to how we would  
20 determine that.  
21 BY MR. ROTTINGHAUS:  
22 Q. Would you agree that if you were  
23 providing information to your personnel on how to  
24 follow the law, you would expect them to try to  
25 follow the law?

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1 A. Yes.  
2 Q. And if you elected to put that  
3 information down in a written policy, you would  
4 expect your personnel to follow the policy?  
5 A. If it was in a written policy.  
6 Q. What might be the benefit of putting  
7 information down in writing either in a policy or  
8 a procedure for employees of HBC warehouse?  
9 A. To make sure that -- a reason for -- if  
10 a certain law or policy is not followed, there's a  
11 little bit more of a level of progressive  
12 discipline that may take place.  
13 Q. If something -- if a policy is put down  
14 in writing or if a procedure is put down in  
15 writing, it might facilitate better communication  
16 among individuals at the company who are expected  
17 to follow the policy or procedure?  
18 MR. KOBRIN: Object to form. Assumes  
19 facts not in evidence.  
20 THE WITNESS: I would suppose so.  
21 BY MR. ROTTINGHAUS:  
22 Q. It provides some guidance clearly in  
23 writing for individuals on what the company  
24 expects; correct?  
25 A. I would suppose, yes.



<p style="text-align: right;">Page 46</p> <p>1 Q. And that's in part why you sometimes 2 decided to draft policies or procedures for 3 individuals at HBC warehouse; isn't that right? 4 MR. KOBRIN: Object to form. 5 THE WITNESS: There would be a couple, 6 you know, maybe reasons because of an 7 accreditation. 8 BY MR. ROTTINGHAUS: 9 Q. Sure. But you're trying to educate the 10 individuals who work at the company to help them 11 understand what the expectation is; correct? 12 A. Correct. 13 Q. Also, it provides hopefully for more 14 consistent application of any guidance that the 15 company wants to provide for its employees if it 16 puts it down in a policy or procedure; correct? 17 A. I would suppose it does. 18 Q. Ultimately, it allows the company to 19 operate a little more efficiently if everybody is 20 on the same page and understands what the 21 expectation is in writing in terms of a policy or 22 a procedure? 23 MR. KOBRIN: Object to form. Don't 24 speculate about the efficiency of the company. 25 THE WITNESS: I can't speculate on that.</p>	<p style="text-align: right;">Page 48</p> <p>1 pharmacies? 2 A. Yes. 3 Q. Did some of those policies and 4 procedures reflect the obligations of those retail 5 pharmacies under the law, whether it be state law 6 or federal law? 7 A. We write policies for internal use, the 8 way we would want to see things done. I can't 9 honestly say that we write policies whenever it is 10 part of law. 11 Q. I think you said it better than I could 12 have. You said you write policies to reflect the 13 way you want things done; correct? 14 A. The way the company would want things 15 done. 16 Q. The way the company would want things 17 done and want its employees to act; is that right? 18 A. I would say yes. 19 Q. And by putting them in writing, it 20 clearly communicates that expectation to 21 employees; is that right? 22 A. As much as possible. 23 Q. And hopefully allows for a more 24 consistent application of whatever the company 25 wants done?</p>
<p style="text-align: right;">Page 47</p> <p>1 BY MR. ROTTINGHAUS: 2 Q. That's fine. Certainly by putting or 3 putting in writing a policy or a procedure, to the 4 extent it talks or discusses compliance with the 5 law, it allows the company to make sure that it 6 has clearly communicated to its employees what the 7 law requires of the company; is that right? 8 MR. KOBRIN: Object to form. 9 THE WITNESS: I would suppose. 10 BY MR. ROTTINGHAUS: 11 Q. I mean, you actually have drafted 12 policies or procedures at times that in some way 13 reflect what the law is and what the company 14 expects its employees to do in order to follow the 15 law; correct? 16 MR. KOBRIN: Object to form. 17 THE WITNESS: In many cases, if it's 18 part of law, we would expect our employees to be 19 following the law. 20 BY MR. ROTTINGHAUS: 21 Q. But to the extent it's -- let me back 22 up. You've drafted policies for your retail 23 pharmacies? 24 A. Yes. 25 Q. You drafted procedures for your retail</p>	<p style="text-align: right;">Page 49</p> <p>1 A. I would say yes. 2 Q. Because if there's a question in 3 somebody's mind, they have a document they can go 4 to and say what is the policy on this; is that 5 right? 6 MR. KOBRIN: Object to form. 7 THE WITNESS: Occasionally. 8 BY MR. ROTTINGHAUS: 9 Q. Versus just going down the hallway and 10 asking somebody what they normally do, they can go 11 to a book or a manual or a policy and say this is 12 what the company expects; is that right? 13 MR. KOBRIN: Object to form. 14 THE WITNESS: At times, yes. 15 BY MR. ROTTINGHAUS: 16 Q. With respect to HBC warehouse's 17 obligations to comply with the Controlled 18 Substances Act, who at the company oversaw that 19 responsibility between 2012 and 2014? 20 A. They had a warehouse manager at the HBC 21 facility. 22 Q. Do you remember who the warehouse 23 manager was at that point in time? 24 A. I believe his name was Walt Durr. 25 Q. Were there some policies and procedures</p>



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1 put down in writing between 2012 and 2014 to help  
2 Mr. Durr make sure he understood what the  
3 company's expectations were for compliance with  
4 the Controlled Substances Act?  
5 A. I don't recall if there were or not.  
6 Q. And because we talked about the fact  
7 that you and Mr. Millward were the individuals who  
8 were in charge of drafting policies and procedures  
9 for the company, if there indeed were policies or  
10 procedures to provide guidance to Mr. Durr, they  
11 would have most likely been drafted by you or  
12 Mr. Millward?  
13 MR. KOBRIN: Object to form.  
14 Misrepresents the deponent's testimony.  
15 THE WITNESS: I would like to know the  
16 timeframe.  
17 BY MR. ROTTINGHAUS:  
18 Q. Sure. I definitely don't intend to  
19 misrepresent your testimony, so forgive me if I  
20 wasn't clear. You correct me if I'm wrong, but we  
21 talked about the fact that we had an opportunity  
22 to hear from Mr. Millward and we had an  
23 opportunity to hear from Mr. Carlson.  
24 My understanding is -- and you correct me if  
25 I'm wrong, but my understanding is between 2009

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1 and 2014, Mr. Millward had some responsibility for  
2 drafting policies and procedures for the HBC  
3 warehouse.  
4 A. I'm not quite sure of that timeframe.  
5 Q. What about the mid 2012 to 2014, did you  
6 personally have some responsibility as the manager  
7 of compliance to draft policies and procedures for  
8 the HBC warehouse to the extent they dealt with  
9 compliance with the law?  
10 A. What was the timeframe again?  
11 Q. Well, I think you told me you took on  
12 the job of manager of compliance in mid to late  
13 2012; right?  
14 A. Um-hum.  
15 Q. So my question is: From the time you  
16 took on that title of manager of compliance from  
17 mid to late 2012 through 2014, to the extent a  
18 policy or procedure was going to be drafted to  
19 provide guidance or a written expectation for HBC  
20 warehouse as a distributor of controlled  
21 substances, would that policy have been drafted by  
22 you?  
23 A. I did not draft any policies in the  
24 timeframe of 2009 to 2014.  
25 Q. That helps me a little bit to know that.

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1 And let me make sure I heard you correctly.  
2 Between 2009 and 2014, you, Mr. Chunderlik, did  
3 not draft any policies or procedures that dealt  
4 with compliance with state or federal laws for HBC  
5 warehouse?  
6 A. Not that I can recall.  
7 Q. And certainly you wouldn't have done it  
8 anyway before mid 2012 because you didn't even  
9 have a job title of manager of compliance until  
10 mid 2012 at the earliest; correct?  
11 A. That's right.  
12 Q. Now, can you tell us why, if there is a  
13 reason, why between 2009 and 2014 you did not  
14 draft any policies or procedures for HBC warehouse  
15 regarding compliance with state or federal laws?  
16 MR. KOBRIN: Object to form.  
17 THE WITNESS: At that period there may  
18 have been policies in place that I was not aware  
19 of, because my involvement in HBC didn't take  
20 place really until that latter part of 2012. So I  
21 don't have any recollection of anything prior to  
22 that timeframe.  
23 BY MR. ROTTINGHAUS:  
24 Q. Well, you said that in mid to late 2012  
25 when you took on the role agreed -- and you did.

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1 You voluntarily agreed to take on the role of  
2 manager of compliance for HBC warehouse; correct?  
3 A. Not just HBC warehouse. That was part  
4 of.  
5 Q. Let me ask it this way: You do agree  
6 that you voluntarily agreed to assume, at least in  
7 part, the duties of manager of compliance for the  
8 HBC warehouse in addition to Giant Eagle somewhere  
9 in to mid 2012 to later 2012.  
10 A. Yes.  
11 Q. Once you agreed to take on the title  
12 manager of compliance for the HBC warehouse in mid  
13 to late 2012 all the way through to 2014, at any  
14 point in time, did you think it might be a good  
15 idea to find out what policies or procedures the  
16 company already had, if it had anything, in  
17 writing to provide guidance for its employees in  
18 abiding by the Controlled Substances Act?  
19 MR. KOBRIN: Object to form. He wasn't  
20 the manager of compliance for the HBC warehouse.  
21 THE WITNESS: Correct. I was not  
22 manager of compliance for the HBC warehouse.  
23 BY MR. ROTTINGHAUS:  
24 Q. I appreciate you letting me know that.  
25 I haven't had an opportunity to learn everything

<p style="text-align: right;">Page 54</p> <p>1 about your background. So this is, in part, a  2 learning experience for me as well.  3 So are you telling us you were not the  4 manager of compliance for HBC warehouse?  5 A. Not specifically for HBC warehouse. I  6 was a manager of compliance for Giant Eagle  7 pharmacy.  8 Q. Is it your understanding that HBC  9 warehouse had a license to distribute Schedule III  10 controlled substances between 2009 and 2014?  11 A. Yes.  12 Q. So when you took on the role or the  13 title of manager of compliance in mid to late  14 2012, did you at any point in time ask anyone  15 whether you were going to have any responsibility  16 for overseeing compliance for the HBC warehouse in  17 addition to Giant Eagle?  18 MR. KOBRIN: Object to form.  19 THE WITNESS: I'm not sure I really  20 understand that question.  21 BY MR. ROTTINGHAUS:  22 Q. Well, Giant Eagle -- it's my  23 understanding that Giant Eagle owned HBC  24 warehouse. Is that your understanding?  25 A. Yes.</p>	<p style="text-align: right;">Page 56</p> <p>1 Q. Was it your understanding in mid to late  2 2012 that you would be part of the team that made  3 sure that HBC warehouse was indeed complying with  4 its responsibilities as a distributor of  5 controlled substances?  6 A. Yes.  7 Q. To your knowledge, was anyone else,  8 either senior or under you, also in charge of  9 making sure that HBC warehouse was complying with  10 its obligations under the Controlled Substances  11 Act between 2012 and 2014?  12 A. Joe Millward, the gentleman that I  13 reported to at Giant Eagle.  14 MR. BARNES: Tom, I previously asked  15 that we take a break right around now so I can get  16 on the call.  17 MR. ROTTINGHAUS: That's fine.  18 THE VIDEOGRAPHER: The time is 9:58 a.m.  19 We're going off the video record.  20 (Recess from 9:58 a.m. to 10:17 a.m.)  21 THE VIDEOGRAPHER: The time is  22 10:17 a.m. We're back on the video record.  23 BY MR. ROTTINGHAUS:  24 Q. Mr. Chunderlik, we just took a break at  25 the request of your counsel. And forgive me. I'm</p>
<p style="text-align: right;">Page 55</p> <p>1 Q. It's my understanding that in mid to  2 late 2012, you took on the title of manager of  3 compliance; correct?  4 A. Um-hum.  5 Q. That's information that was provided to  6 us on Exhibit 2, but it's my understanding that's  7 also your testimony today.  8 A. Yes.  9 Q. Who were you managing compliance for?  10 Were you managing compliance for HBC warehouse?  11 A. It was mostly the retail pharmacies.  12 Q. And there is a difference between the  13 obligations of a retail pharmacy that's actually  14 dispensing medications including controlled  15 substances and the responsibilities of a  16 distributor under the Controlled Substances Act.  17 You understand that; correct?  18 A. Yes.  19 Q. When you took on that job responsibility  20 and agreed to become the manager of compliance in  21 mid to late 2012, was it your understanding that  22 you were also going to be overseeing compliance of  23 the HBC warehouse?  24 A. I didn't oversee compliance. I was part  25 of the compliance team.</p>	<p style="text-align: right;">Page 57</p> <p>1 going to try to pick up where I left off, but I  2 need to refresh myself on couple of things before  3 I do so.  4 It's my understanding that prior to taking on  5 the position of manager of compliance in the  6 latter part of 2012, you had no formal training in  7 the realm of compliance; is that correct?  8 A. No formal training.  9 Q. What you did is you tried to read up to  10 make sure you had an understanding of what the  11 responsibilities were for the pharmacies at Giant  12 Eagle, but also HBC as a distributor of controlled  13 substances to comply with the federal and state  14 laws?  15 MR. KOBRIN: Object to form.  16 THE WITNESS: That was one part of it.  17 I did some reading. I also collaborated and  18 talked to other folks that I thought I needed to  19 talk to. In some cases, it could involve legal  20 counsel at Giant Eagle and my direct supervisor at  21 the time, Joe Millward, or even Greg Carlson, to  22 increase my knowledge of operations of the HBC  23 warehouse.  24 BY MR. ROTTINGHAUS:  25 Q. To the best of your memory, did anyone</p>

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1 provide you with any written resources published  
2 by any organization to assist you in making sure  
3 you had an understanding of the responsibilities  
4 of HBC as a distributor to comply with the  
5 Controlled Substances Act and any other state and  
6 federal laws from 2012 onward?  
7 A. In talking to some of the individuals  
8 and talking to even legal counsel, I was directed  
9 towards some information that would help me  
10 understand that.  
11 MR. KOBRIN: Again, I just want to make  
12 sure with regard to conversations you had with  
13 legal counsel, you can state generally that you  
14 had them, but I don't want you to get into any  
15 detail about them. I don't think Tom does either.  
16 BY MR. ROTTINGHAUS:  
17 Q. What information -- what resources were  
18 you directed to? And I'm talking about published  
19 resources, whether they be from DEA or from some  
20 other organization.  
21 What did you look at and try to read to make  
22 sure you were fulfilling your responsibilities as  
23 manager of compliance for HBC warehouse?  
24 A. First of all, I want to make sure. I  
25 wasn't just directly the manager of compliance at

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1 the HBC warehouse. It was one of my areas that  
2 fell under me, but I wasn't directly the manager  
3 for HBC warehouse alone.  
4 Q. I understand you were manager of  
5 compliance for Giant Eagle. But my understanding  
6 was --  
7 A. Giant Eagle pharmacy.  
8 Q. Giant Eagle pharmacy. But my  
9 understanding, and correct me if I'm wrong, is  
10 that you also had the responsibility for managing  
11 compliance for HBC warehouse. Am I incorrect?  
12 A. In collaboration with my boss, my direct  
13 supervisor, Joe Millward, and even Greg Carlson.  
14 Q. Besides Mr. Carlson and Mr. Millward,  
15 who both have also given us testimony and  
16 information about who was overseeing compliance,  
17 besides those two individuals and yourself, was  
18 there anyone else who to your knowledge was making  
19 sure that HBC was complying with its  
20 responsibilities as a distributor of controlled  
21 substances between 2009 and 2014?  
22 MR. KOBRIN: Not somebody who was  
23 supervising? I'm just making sure.  
24 BY MR. ROTTINGHAUS:  
25 Q. Let's back up. I think you know what

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1 I'm talking about. But if you don't, let me know.  
2 I'm trying to find out. You said you had some  
3 role in managing compliance for HBC warehouse;  
4 correct?  
5 A. Yes.  
6 Q. I think what you're trying to tell us is  
7 you weren't the only one; is that right?  
8 A. That would be correct.  
9 Q. You're trying to tell us that  
10 Mr. Millward also had some responsibility and  
11 Mr. Carlson also had some responsibility.  
12 A. Yes.  
13 Q. Was there anyone else?  
14 A. Not direct responsibility.  
15 Q. You, Mr. Carlson and Mr. Millward though  
16 did have direct responsibility; correct?  
17 A. I'm not sure. The definition of direct  
18 I'm not quite sure.  
19 Q. Well, you used the word.  
20 A. I did use the word, yeah. I'm not quite  
21 sure though.  
22 Q. Well, I mean, you agree somebody had to  
23 make sure that HBC warehouse was complying with  
24 the law between 2012 and 2014; right?  
25 A. I would also say that the warehouse

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1 manager had a part to make sure that his facility  
2 was in compliance with the law as well.  
3 Q. That would be Mr. Durr?  
4 A. Yes, correct.  
5 Q. Did anyone provide Mr. Durr with any  
6 written direction on what the expectations were  
7 for him to make sure that his facility at HBC  
8 warehouse was complying with the law and its  
9 duties as a distributor of controlled substances  
10 between 2009 and 2014?  
11 A. I don't necessarily know that.  
12 Q. Did you personally provide him with any  
13 written documentation to help him understand what  
14 his responsibilities might be?  
15 MR. KOBRIN: Object to form.  
16 THE WITNESS: There may have been  
17 communication, oral communication.  
18 BY MR. ROTTINGHAUS:  
19 Q. I'm asking for written right now. Did  
20 you draft any written policies or procedures to  
21 assist Mr. Durr or anyone else at HBC warehouse  
22 between 2012 and 2014 to understand their  
23 responsibilities as a distributor of controlled  
24 substances?  
25 MR. KOBRIN: Object to form.

<p style="text-align: right;">Page 62</p> <p>1 Misrepresents prior testimony. He talked about 2 that already. 3 THE WITNESS: I'm not sure that I recall 4 that. 5 BY MR. ROTTINGHAUS: 6 Q. You're not sure you recall ever 7 providing him with any written documentation, is 8 that what you're saying? 9 A. Yes. 10 Q. You certainly don't remember drafting 11 any policies or procedures for Mr. Durr or for 12 anyone else at the HBC warehouse to follow to make 13 sure they were complying with the Controlled 14 Substances Act between 2012 and 2014, do you? 15 A. I don't recall. 16 Q. And, obviously, you would not have done 17 so before 2012 because you didn't have any 18 responsibility for compliance prior to 2012; 19 right? 20 A. That would be correct. 21 Q. So, therefore, between 2009 and 2014, 22 you don't recall ever providing Mr. Durr or anyone 23 else at HBC warehouse with any written policies or 24 procedures to assist them in making sure they were 25 complying with the Controlled Substances Act; is</p>	<p style="text-align: right;">Page 64</p> <p>1 because it's my understanding that in October of 2 2014, HBC warehouse stopped distributing 3 hydrocodone combination products. Is that your 4 understanding? 5 A. That is correct, yes. 6 Q. So let's back up. Now you know I'm 7 talking about up until October of 2014. 8 Sitting here today, it's fair to say that you 9 do not recall and cannot point us to any document, 10 any policy, any procedure that provided any 11 guidance to anyone at HBC warehouse as to its 12 responsibilities as a distributor of controlled 13 substances between 2009 and 2014? 14 A. That is my recall, yes. 15 Q. Sitting here today, do you think it 16 would have been a good idea to have drafted some 17 policies or procedures or written guidance to 18 individuals at HBC warehouse to make sure they 19 understand or understood their responsibilities as 20 a distributor of controlled substances between 21 2012 and 2014? 22 MR. KOBRIN: Object to form. 23 THE WITNESS: It may or may not. Not in 24 all cases. 25</p>
<p style="text-align: right;">Page 63</p> <p>1 that correct? 2 A. I'm not quite sure. I don't recall 3 exactly. 4 Q. You certainly can't point to anything 5 today, can you? 6 MR. KOBRIN: Object to form. 7 THE WITNESS: I am not sure. 8 BY MR. ROTTINGHAUS: 9 Q. Do you believe there was a policy or a 10 procedure you drafted that just hasn't been 11 circulated yet? 12 A. I can't -- I can't -- I don't have 13 any -- I don't have any recall on that. 14 Q. And that's all we can ask you, is to 15 give us your testimony, and you are under oath, 16 but to give us your testimony to the best of your 17 recollection. 18 Just to make sure we clear, you do not recall 19 drafting or having had drafted any policies or 20 procedures to provide guidance to anyone at HBC 21 warehouse as to their responsibilities as a 22 distributor of controlled substances between 2009 23 and 2014; correct? 24 A. What period in 2014 may I ask? 25 Q. Well, we'll ask. October of 2014,</p>	<p style="text-align: right;">Page 65</p> <p>1 BY MR. ROTTINGHAUS: 2 Q. You said it may or may not. Let's talk 3 about how it may. Why may that have helped? 4 A. There are instances where, you know, 5 sometimes things in written form can be 6 misinterpreted and misunderstood, and in those 7 types of cases, I believe that oral communication, 8 being able to ask questions, interpretation and 9 things like that. 10 Q. Of course, if something is in writing, 11 to the extent it's misunderstood, someone who's 12 reading a written document or reading written 13 guidance also has the option to still pick up the 14 phone or walk down the hall or contact anyone in 15 the company and ask them what is meant by that 16 guidance; correct? 17 MR. KOBRIN: Object to form. 18 THE WITNESS: I would agree with that. 19 BY MR. ROTTINGHAUS: 20 Q. You've been a pharmacist since 1980? 21 A. Yes. 22 Q. And in your various capacities as a 23 retail pharmacist and as a trainer, you've run 24 across numerous policies for different companies 25 you've worked for; right?</p>



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1 A. I would say yes.  
2 Q. And you've run across numerous  
3 procedures for companies you've worked for; right?  
4 A. Yes.  
5 Q. There's a reason those are drafted;  
6 correct?  
7 MR. KOBRIN: Object to form.  
8 THE WITNESS: I can't -- I can't  
9 speculate as to why a company writes a policy or  
10 why they don't.  
11 BY MR. ROTTINGHAUS:  
12 Q. Well, when you've written them, was  
13 there a reason for you to do it?  
14 A. Yes.  
15 Q. In part, it was to make sure that people  
16 at the company understood what their obligations  
17 were and what the expectations were by the  
18 company; correct?  
19 MR. KOBRIN: Object to form.  
20 THE WITNESS: Or if I was asked to write  
21 a policy.  
22 BY MR. ROTTINGHAUS:  
23 Q. I want to let you finish. I got the  
24 objection, and it will stand. I'm going to ask it  
25 again.

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1 On those occasions where you drafted a policy  
2 or procedure for anyone at HBC warehouse or at  
3 Giant Eagle, there was a reason why you did it;  
4 correct?  
5 MR. KOBRIN: Object to form.  
6 THE WITNESS: I may have been asked to  
7 do that.  
8 BY MR. ROTTINGHAUS:  
9 Q. But there was a reason why someone  
10 thought it should be drafted and put to writing;  
11 correct?  
12 MR. KOBRIN: Object to form.  
13 Speculative.  
14 THE WITNESS: I can only speculate that  
15 that would be the case.  
16 BY MR. ROTTINGHAUS:  
17 Q. Do you have to speculate as to why you  
18 would have decided to draft a policy or a  
19 procedure, sir, or is there a reason?  
20 When you decide it to do, is there a reason  
21 why you did it? You're not trying to waste your  
22 time; right?  
23 A. No. I would just say, you know,  
24 basically if the company asked to have a policy  
25 written, I would provide and collaborate with

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1 other folks to write that policy.  
2 Q. And sometimes there have been occasions  
3 where you thought it might be a good idea to have  
4 a policy or procedure in place, because we're  
5 going to look at some of those documents today; is  
6 that right?  
7 MR. KOBRIN: Object to form.  
8 THE WITNESS: Without seeing the  
9 documents, I'm not really sure.  
10 BY MR. ROTTINGHAUS:  
11 Q. Well, would you agree there have been  
12 times in your career for Giant Eagle and in that  
13 timeframe when you oversaw compliance for HBC  
14 warehouse that you thought it would be a good idea  
15 to have documentation and written guidance for  
16 individuals to make sure they understood what  
17 their expectations were?  
18 A. When it was a requirement, yes.  
19 Q. Only when it was a requirement or were  
20 there times where you thought it would be a good  
21 idea to make sure everyone was on the same page  
22 and everyone understood what their obligations  
23 were?  
24 A. When we were required to do so, yes.  
25 Q. Only when required to do so. So the

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1 only reason a policy or a procedure ever got  
2 drafted by you, Mr. Chunderlik, was when you  
3 thought there was a requirement that you do so?  
4 MR. KOBRIN: Object to form.  
5 BY MR. ROTTINGHAUS:  
6 Q. Is that what you're telling this court  
7 and jury?  
8 A. That's my recollection.  
9 Q. At any point in time between 2012 and  
10 2014 when you were overseeing or managing  
11 compliance for HBC warehouse, did you think it  
12 would be a good idea to have policies, procedures  
13 or written guidance available for the individuals  
14 in the warehouse, the pickers, Mr. Durr and his  
15 people, to make sure they knew what their  
16 obligations were if an order was given for some  
17 certain type of controlled substance?  
18 MR. KOBRIN: Object to form.  
19 THE WITNESS: I hear several different  
20 questions being asked at the same time.  
21 BY MR. ROTTINGHAUS:  
22 Q. Let me clarify. That's one of my  
23 faults. I sometimes ask very unclear questions.  
24 Mr. Durr had a team of people including  
25 people that are sometimes referred to as pickers



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1 in the secure area of the warehouse; correct?

2 A. I would believe so.

3 Q. To your knowledge, was there any written

4 guidance for those individuals in the warehouse

5 who were picking orders, picking controlled

6 substances and putting them in totes to be shipped

7 off to the pharmacies?

8 Was there any written guidance for those

9 people to make sure they understood what the

10 obligations were for HBC warehouse as a

11 distributor of controlled substances?

12 A. I'm not really sure if there were.

13 Q. Looking back and understanding that you

14 had responsibility for compliance not only of

15 Giant Eagle, but also HBC warehouse as a manager

16 of compliance, do you think it would have been a

17 good idea to have had written documentation and

18 guidance for those individuals?

19 A. I'm not sure.

20 Q. Why do you say you're not sure?

21 A. As I had talked -- as I alluded to

22 earlier, a lot of times I am most comfortable in

23 communicating orally with folks. If they have

24 questions or have any type of question that they

25 need to ask me, I would respond orally, pick up

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1 the phone, talk.

2 Q. Do you know if Mr. Durr's team, all of

3 the individuals who worked under him in that

4 warehouse at HBC between 2012 and 2014 had that

5 same level of comfort of knowing they could just

6 pick up the phone and talk to you if they had any

7 questions?

8 MR. KOBRIN: Object to form.

9 Speculative.

10 THE WITNESS: I don't know that.

11 BY MR. ROTTINGHAUS:

12 Q. You don't know because you don't even

13 know who all those individuals were in fairness to

14 you; right?

15 MR. KOBRIN: Object to form.

16 THE WITNESS: I don't know all the

17 pickers who worked at the HBC warehouse.

18 BY MR. ROTTINGHAUS:

19 Q. I'm not suggesting you should, but I

20 mean, in fairness, you visited that warehouse, to

21 the best of your memory, once or twice between

22 2012 and 2014; right?

23 A. Yes.

24 Q. So personally you didn't get an

25 opportunity to meet everybody who worked in that

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1 warehouse, did you?

2 A. Most of my communication was with the

3 warehouse manager.

4 Q. Understood. And you didn't get a chance

5 to communicate with all of the team there at the

6 warehouse; correct?

7 A. Not every single individual.

8 Q. And certainly you never had an

9 opportunity or you never took the opportunity to

10 communicate with those individuals in writing, in

11 the form of a written guidance via policy,

12 procedure or other document, to make sure they

13 understood what you expected as the manager of

14 compliance, did you?

15 MR. KOBRIN: Object to form.

16 Misrepresents evidence and testimony.

17 THE WITNESS: I'm not really sure that I

18 would agree to that.

19 BY MR. ROTTINGHAUS:

20 Q. Well, let's talk about it. When between

21 2012 and 2014 did Mr. Chunderlik as manager of

22 compliance take the time to put anything in

23 writing regarding his expectations for individuals

24 at the HBC warehouse to make sure they were

25 complying with their obligations as a distributor

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1 of controlled substances?

2 A. I did not.

3 Q. Do you know if anyone did?

4 A. I believe there were some procedural

5 documents put together by other individuals before

6 I came into the role.

7 Q. Before 2012 you think there were

8 procedural documents that were put in writing to

9 provide guidance to individuals at HBC warehouse?

10 A. I think there may have been.

11 Q. Do you know what those documents

12 entailed? Because I'm not sure I've seen them.

13 A. I'm not really sure.

14 Q. You certainly don't know if any of those

15 documents involved guidance to individuals at HBC

16 warehouse as to their obligations to comply with

17 the Controlled Substances Act; is that fair to

18 say?

19 MR. KOBRIN: Object to form.

20 THE WITNESS: I would agree with that.

21 BY MR. ROTTINGHAUS:

22 Q. At any point in time after you took over

23 as the manager of compliance in later 2012, did

24 you ask anyone if you could see what policies or

25 procedural documents, I think you referred to them

<p style="text-align: right;">Page 74</p> <p>1 as, existed to make sure they did provide</p> <p>2 sufficient guidance to individuals at the HBC</p> <p>3 warehouse regarding their obligations under the</p> <p>4 Controlled Substances Act?</p> <p>5 MR. KOBRIN: Object to form.</p> <p>6 THE WITNESS: I did not personally.</p> <p>7 BY MR. ROTTINGHAUS:</p> <p>8 Q. Do you think that would have been a good</p> <p>9 idea?</p> <p>10 A. I'm not sure.</p> <p>11 Q. When you took over as the manager of</p> <p>12 compliance in 2012, to the best of your memory, no</p> <p>13 one either above you, below you or at your same</p> <p>14 level showed you any documents that already</p> <p>15 existed to provide guidance to HBC warehouse as to</p> <p>16 its obligations as a distributor under the</p> <p>17 Controlled Substances Act; is that fair to say?</p> <p>18 A. There may have been some documents out</p> <p>19 there that I can't recall exactly what was in</p> <p>20 those documents.</p> <p>21 Q. Now, you said before that you didn't</p> <p>22 want to speculate. Is this a point in time where</p> <p>23 you might be speculating a little bit as to</p> <p>24 whether there might have been some documents out</p> <p>25 there?</p>	<p style="text-align: right;">Page 76</p> <p>1 opportunity to speak to some different people in</p> <p>2 this case including Mr. Millward and Mr. Carlson</p> <p>3 and others, and we've learned a little bit about</p> <p>4 how Giant Eagle pharmacies ran.</p> <p>5 Correct me if I'm wrong, but it's my</p> <p>6 understanding that at least as of 2014, Giant</p> <p>7 Eagle had pharmacies in at least five states, if</p> <p>8 not more.</p> <p>9 A. That's correct. Maybe four states at</p> <p>10 that point in time.</p> <p>11 Q. Ohio was one of them?</p> <p>12 A. 2014?</p> <p>13 Q. Yes. Ohio was one of them; right?</p> <p>14 A. Yes.</p> <p>15 Q. And Ohio was one of the states where HBC</p> <p>16 warehouse was indeed distributing controlled</p> <p>17 substance including hydrocodone combination</p> <p>18 products between 2009 and 2014; correct?</p> <p>19 A. Correct.</p> <p>20 Q. When you took over as manager of</p> <p>21 compliance for Giant Eagle and HBC warehouse in</p> <p>22 late 2012, I assume you already had an</p> <p>23 understanding that there was felt to be a problem</p> <p>24 with abuse of opioid medications in this country.</p> <p>25 MR. KOBRIN: Object to form.</p>
<p style="text-align: right;">Page 75</p> <p>1 A. I'm not sure.</p> <p>2 Q. Well, let's ask the question again. And</p> <p>3 I know your attorney doesn't want you to</p> <p>4 speculate. And I don't want you to either because</p> <p>5 you're under oath. I only want you to tell us if</p> <p>6 you can. Okay? Let me ask the question a little</p> <p>7 differently. So listen if you can.</p> <p>8 Would it be fair to say that you don't recall</p> <p>9 anyone ever providing you with any documents that</p> <p>10 existed in writing to provide guidance to</p> <p>11 individuals at the HBC warehouse as to their</p> <p>12 obligations as a distributor of controlled</p> <p>13 substances when you took the position as manager</p> <p>14 of compliance in 2012?</p> <p>15 A. I would say yes.</p> <p>16 Q. And it would also be fair to say that</p> <p>17 you don't remember any time after 2012 and before</p> <p>18 the end of 2014 that anyone did that; is that</p> <p>19 correct?</p> <p>20 MR. KOBRIN: Object to form.</p> <p>21 THE WITNESS: That would be correct.</p> <p>22 BY MR. ROTTINGHAUS:</p> <p>23 Q. That would be correct?</p> <p>24 A. Yes.</p> <p>25 Q. Again, I've told you we've had an</p>	<p style="text-align: right;">Page 77</p> <p>1 THE WITNESS: I knew that in certain</p> <p>2 instances there were, yes.</p> <p>3 BY MR. ROTTINGHAUS:</p> <p>4 Q. And there had even been some isolated</p> <p>5 instances where some of the Giant Eagle pharmacies</p> <p>6 had encountered problems with diversion; correct?</p> <p>7 MR. KOBRIN: Object to form.</p> <p>8 THE WITNESS: I don't recall the exact</p> <p>9 timeframe.</p> <p>10 BY MR. ROTTINGHAUS:</p> <p>11 Q. You do recall there had been times where</p> <p>12 you heard about problems with diversion at some of</p> <p>13 the Giant Eagle pharmacies?</p> <p>14 MR. KOBRIN: Object to form.</p> <p>15 THE WITNESS: I do recall an instance or</p> <p>16 two.</p> <p>17 BY MR. ROTTINGHAUS:</p> <p>18 Q. Is that something you would have been</p> <p>19 overseeing, the investigation into the diversion</p> <p>20 in those instances?</p> <p>21 A. At those points in time, I do not</p> <p>22 believe so.</p> <p>23 Q. Is that because it was, to the best of</p> <p>24 your knowledge, prior to 2012, or was that just</p> <p>25 not something that fell under your</p>

<p style="text-align: right;">Page 78</p> <p>1 responsibilities as manager of compliance once you 2 took over -- 3 A. Before 2012. 4 MR. KOBRIN: Object to form. 5 BY MR. ROTTINGHAUS: 6 Q. Once you took over as manager of 7 compliance in 2012, did your responsibilities also 8 include overseeing investigations where there were 9 any potential concerns about diversion? 10 A. I would not say -- I would not use the 11 word overseeing. I would say part of a group that 12 would look into those types of situations. I did 13 not oversee an investigation. 14 Q. Let's focus on that timeframe again when 15 you found out that you were being asked to become 16 manager of compliance for Giant Eagle and HBC 17 warehouse. Okay? 18 You told us before that you did a lot of 19 reading once you found out that you were going to 20 be taking on that role and you willfully took on 21 that role; correct? 22 A. Yep. 23 Q. "Yes"? 24 A. Yes. Sorry. 25 (HBC-Chunderlik Exhibit 4 was marked.)</p>	<p style="text-align: right;">Page 80</p> <p>1 resources from the DEA. 2 A. Correct. 3 Q. And I assume you're not sitting here 4 representing to us you remember specifically what 5 you reviewed; is that right? 6 A. That is correct. 7 Q. Looking at Exhibit 4, do you believe you 8 reviewed any of the letters from the DEA that are 9 contained in Exhibit 4 back when you took over as 10 manager of compliance for HBC and Giant Eagle in 11 2012? 12 A. I do not recall these letters 13 specifically. 14 Q. Do you remember if you ever saw those 15 letters before you became aware that you were 16 going to need to give testimony in this case? 17 A. Yes. 18 Q. Do you remember approximately when you 19 first remember seeing any of these letters that 20 are in Exhibit 4? 21 A. In these forms, I would say early 2017. 22 Q. Do you remember what it is that focused 23 your attention on these letters that are 24 encompassed in Exhibit 4 in 2017? 25 MR. KOBRIN: Let me give you a warning</p>
<p style="text-align: right;">Page 79</p> <p>1 BY MR. ROTTINGHAUS: 2 Q. I'm going to show you what's been marked 3 as Exhibit 4. 4 MR. ROTTINGHAUS: Exhibit 4 is, I think, 5 reference number 03, pull that up, the first page. 6 BY MR. ROTTINGHAUS: 7 Q. Mr. Chunderlik, what you have in front 8 of you and what we have marked as Exhibit 4 is 9 actually a series of four different pieces of 10 correspondence on letterhead from the United 11 States Department of Justice Drug Enforcement 12 Administration. I will represent to you all the 13 attorneys here are familiar with these letters 14 because they've been discussed at various points 15 in time. 16 Each of these letters start out with Dear 17 Registrant. That's how they're addressed. There 18 is one from 2006. There's one from February of 19 2007. There's one from December of 2007, and then 20 the one right in front of at the top of the stack 21 is dated June 12th of 2012. 22 Here's my question for you. When you took 23 over as manager of compliance in late 2012 and 24 started doing some reading, I think you said that 25 one of the things you did is you looked at some</p>	<p style="text-align: right;">Page 81</p> <p>1 about privilege. I'm not sure what the context 2 was, but if it related to counsel, I'd be weary of 3 sharing information that you shared or were 4 advised by counsel. 5 BY MR. ROTTINGHAUS: 6 Q. I want to make sure that I -- I don't 7 want to delve into communications with your 8 attorneys. I maybe misunderstood what you said 9 before. And maybe I just phrased my question 10 poorly when I asked you if you had ever been aware 11 of these letters before you became aware that you 12 would be a witness giving testimony in this case. 13 What I meant was before you were contacted by 14 any lawyers about this case, had you reviewed any 15 of these letters in Exhibit 4? 16 A. I recall seeing one of these letters. 17 Q. Do you remember which one you recall 18 seeing and when you recall seeing it? 19 A. I believe it was early in the 2017 20 timeframe. 21 Q. Do you remember what it was in 2017 that 22 caused you to run across one of these letters that 23 are in Exhibit 4? 24 A. I don't remember a specific instance, 25 but I did have it. It was presented to me as</p>

<p style="text-align: right;">Page 82</p> <p>1 something that I should take a look at.</p> <p>2 Q. Do you remember who presented it to you</p> <p>3 as something you should take a look at?</p> <p>4 A. I do not remember the individual, no.</p> <p>5 Q. Was it someone at Giant Eagle?</p> <p>6 A. Yes.</p> <p>7 Q. In other words, someone at your</p> <p>8 company --</p> <p>9 A. Yes.</p> <p>10 Q. -- told you in 2017 that they thought</p> <p>11 you should be aware of these letters from the DEA?</p> <p>12 A. Yes.</p> <p>13 Q. And that would still be because you had</p> <p>14 the title of manager of compliance in 2017?</p> <p>15 MR. KOBRIN: Object to form.</p> <p>16 THE WITNESS: Yes.</p> <p>17 BY MR. ROTTINGHAUS:</p> <p>18 Q. Do you remember if -- do you remember</p> <p>19 which letter among those in Exhibit 4 was the</p> <p>20 letter you saw?</p> <p>21 A. I could not say which date was on the</p> <p>22 letter. I don't recall which date.</p> <p>23 Q. Do you recall whether when you saw</p> <p>24 whichever letter you saw in 2017 that's reflected</p> <p>25 in Exhibit 4 that it caused you to go back and</p>	<p style="text-align: right;">Page 84</p> <p>1 A. Yes.</p> <p>2 Q. If you look at the first page of</p> <p>3 Exhibit 12, as you read this letter on the first</p> <p>4 page, Exhibit 4, today, Mr. Chunderlik, is it your</p> <p>5 understanding that this letter is indeed directed</p> <p>6 to entities that are licensed to distribute</p> <p>7 controlled substances in the United States?</p> <p>8 A. Yes.</p> <p>9 Q. And even sitting here today -- first of</p> <p>10 all, today HBC warehouse is no longer distributing</p> <p>11 controlled substances as I understand.</p> <p>12 A. That's correct.</p> <p>13 Q. And, again, back in 2009 is when it</p> <p>14 stopped distributing hydrocodone combination</p> <p>15 products?</p> <p>16 MR. KOBRIN: Object to form.</p> <p>17 THE WITNESS: Repeat that.</p> <p>18 BY MR. ROTTINGHAUS:</p> <p>19 Q. I'm sorry. I said that wrong. 2014 is</p> <p>20 when it stopped distributing hydrocodone</p> <p>21 combination products to the best of your memory?</p> <p>22 A. Yes.</p> <p>23 Q. This letter on the first page of</p> <p>24 Exhibit 4, it references some statutory codes</p> <p>25 including 21 CFR Section 1301. I think it's in</p>
<p style="text-align: right;">Page 83</p> <p>1 want to see some of the other letters that the DEA</p> <p>2 had sent out to registrants who were licensed to</p> <p>3 distribute controlled substances?</p> <p>4 MR. KOBRIN: Object to form. Assumes</p> <p>5 that he knew about the other letters.</p> <p>6 THE WITNESS: Restate that question if</p> <p>7 you could.</p> <p>8 BY MR. ROTTINGHAUS:</p> <p>9 Q. Do you know whether you became aware of</p> <p>10 other letters that had been published and sent by</p> <p>11 the DEA whenever you were directed to the letter</p> <p>12 you were directed to that's encompassed in</p> <p>13 Exhibit 4 in 2017?</p> <p>14 MR. KOBRIN: Object to form.</p> <p>15 THE WITNESS: I didn't know that there</p> <p>16 were various versions of this particular document.</p> <p>17 BY MR. ROTTINGHAUS:</p> <p>18 Q. So once it was directed to you in 2017</p> <p>19 by someone at Giant Eagle, you obviously read the</p> <p>20 letter?</p> <p>21 A. Yes.</p> <p>22 Q. At that point in time, did you try to</p> <p>23 digest the contents of that letter and make sure</p> <p>24 that whatever it stated, Giant Eagle was following</p> <p>25 the guidelines provided by the DEA?</p>	<p style="text-align: right;">Page 85</p> <p>1 the second full paragraph, well, first and second</p> <p>2 full paragraph. Do you see that?</p> <p>3 A. I do.</p> <p>4 Q. At any point in time, do you recall that</p> <p>5 you personally looked or went to the United States</p> <p>6 Code of Federal Regulations, specifically</p> <p>7 Section 1301.74, to better understand what the</p> <p>8 duties of a distributor of controlled substances</p> <p>9 might entail between 2012 and 2014?</p> <p>10 A. I may have.</p> <p>11 (HBC-Chunderlik Exhibit 3 was marked.)</p> <p>12 BY MR. ROTTINGHAUS:</p> <p>13 Q. I'm going to show you what's been marked</p> <p>14 Exhibit 3. I think it was already in front of</p> <p>15 you. I'm going to be focusing on subparagraph</p> <p>16 (b), which is the second full paragraph there.</p> <p>17 Are you with me?</p> <p>18 A. I am, yes.</p> <p>19 Q. It's a little hard to read. I apologize</p> <p>20 the text is kind of small. So we've also put it</p> <p>21 on the screen if it's easier for you to read</p> <p>22 there.</p> <p>23 First of all, I want to read this subsection</p> <p>24 and make sure I'm reading it correctly. Okay?</p> <p>25 According to this subsection, it states, "The</p>



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1 registrant shall design and operate a system to  
 2 disclose to the registrant suspicious orders of  
 3 controlled substances."  
 4 Have I read it right so far?  
 5 A. Yes.  
 6 Q. It then says, "The registrant shall  
 7 inform the field division office in his area of  
 8 suspicious orders when discovered by the  
 9 registrant." Correct?  
 10 A. Yes.  
 11 Q. And then it goes on to describe  
 12 suspicious orders and how they can include orders  
 13 of unusual size, orders deviating substantially  
 14 from a normal pattern and orders of unusual  
 15 frequency; correct?  
 16 A. Yes.  
 17 Q. Do you remember if you read at any point  
 18 in time this provision of the Code of Federal  
 19 Regulations between 2012 and 2014 when you were  
 20 manager of compliance and, in part, oversaw  
 21 compliance for HBC warehouse?  
 22 A. I do recall that, yes.  
 23 Q. In fact, when you told us that you went  
 24 and did some reading when you first took on the  
 25 position of manager of compliance, is this section

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1 of the Code of Federal Regulations one of the  
 2 sections you went and read, to the best of your  
 3 memory?  
 4 A. I do recall that, yes.  
 5 Q. And that's certainly a section of the  
 6 the Code of Federal Regulations that you believed  
 7 at the time and still believe that any distributor  
 8 of controlled substances has an obligation to  
 9 follow; correct?  
 10 MR. KOBRIN: Object to form.  
 11 THE WITNESS: It's one of the -- it's a  
 12 subsection of the entire -- of the entire security  
 13 procedure, to protect the security integrity of  
 14 controlled substances.  
 15 BY MR. ROTTINGHAUS:  
 16 Q. When you read this section, specifically  
 17 where it says, "The registrant shall design and  
 18 operate a system," did you at any point in 2012 or  
 19 thereafter ask any of your colleagues whether a  
 20 system was already in place for HBC warehouse?  
 21 A. The timeframe again?  
 22 Q. When you took over as manager of  
 23 compliance in 2012.  
 24 A. I don't recall specifically.  
 25 Q. Let me ask it again to make sure I asked

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1 it correctly. Once you took over as manager of  
 2 compliance in 2012, is it fair to say that you  
 3 don't specifically remember asking anyone whether  
 4 HBC warehouse had already designed and operated a  
 5 system to disclose suspicious orders?  
 6 A. I would say that's correct.  
 7 Q. We're going to move on to some -- you  
 8 can lay down these exhibits that we've had in  
 9 front of you. If you need to look at them at any  
 10 point in time, I want you to feel free to do so.  
 11 If you need me to direct you back to something,  
 12 you let me know. We're going to move on to some  
 13 other documents right now.  
 14 (HBC-Chunderlik Exhibit 5 was marked.)  
 15 BY MR. ROTTINGHAUS:  
 16 Q. I want to show you what has been marked  
 17 as Exhibit 5. And I'm going to tell you what I've  
 18 told some of the other witnesses. Forgive me that  
 19 some of these documents are pretty lengthy. And  
 20 we're not going to go over all of them. You  
 21 certainly have a right to look at anything you  
 22 want to look at. But there are going to be  
 23 portions of some of these documents that I want to  
 24 focus on.  
 25 I'm not intentionally trying to mislead you

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1 as to what they say. So if you want to take the  
 2 time to look through them, you have the right to  
 3 do so. Okay?  
 4 A. Sure.  
 5 Q. Specifically on Exhibit 5 right now, I'm  
 6 focusing on the first page. Okay?  
 7 A. Yes.  
 8 Q. You'll see at the top -- I'm assuming  
 9 this might be what we sometimes call a calendar  
 10 invite because it says Organizer and then it says  
 11 Joe Millward, does it not, at the top?  
 12 A. Yes, it does.  
 13 Q. And then if you look down, I think  
 14 you're going to see your name in the Required  
 15 section of that document.  
 16 A. Yes.  
 17 Q. I think it's the third line down.  
 18 A. Yes.  
 19 Q. Mr. Carlson and you among others;  
 20 correct?  
 21 A. Yes.  
 22 Q. And then it looks like there's a  
 23 conference room where there's going to be some  
 24 type of meeting or conference.  
 25 A. Yes.



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1 Q. If you look at the emails, there's an  
2 email chain here, and I want to go to the second  
3 page of this document now. Are you with me?  
4 A. Yes.  
5 Q. You'll see at the top of that document  
6 it's dated May 6, 2013; correct?  
7 A. That's correct.  
8 Q. And it looks like it's addressed to  
9 Mr. Millward.  
10 A. Yes.  
11 Q. I'm going to read to you -- and I think  
12 I'll be corrected if I'm wrong. I think this is  
13 from someone at McKesson. Okay?  
14 A. It looks to be.  
15 Q. I really want to just focus on the first  
16 sentence, and then I have a question. It says,  
17 "Dear Joseph, as we unfortunately are all aware,  
18 the abuse of prescription drugs, particularly  
19 controlled substances, continues to be a serious  
20 problem among millions of Americans."  
21 Did I read that correctly?  
22 A. You did.  
23 Q. Do you agree with that statement?  
24 A. I don't necessarily know that to be  
25 true. I cannot agree that I know that to be true.

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1 Q. Do you have any reason or did you have  
2 any reason as of 2013 to voice your opinion that  
3 you disagreed with this statement to anyone?  
4 A. I don't think I voiced that opinion, no.  
5 Q. If you go back to the first page of this  
6 document -- well, forgive me. I don't mean to  
7 jump around. I should go back to the second page  
8 for one more minute.  
9 I believe if you go to the second paragraph  
10 of this document on page 2, it's talking about an  
11 effort to expand upon due diligence in providing  
12 some information that's being requested of the  
13 company.  
14 A. Yes.  
15 Q. Now back to page 1. On the bottom half  
16 of this, there's an email from Sabrina Cook to  
17 Mr. Millward. I don't believe you're copied on  
18 this portion of the email. But I just want to ask  
19 you if you're familiar with what she's talking  
20 about. Okay?  
21 She states, "Dear Joe, our regulatory team  
22 has developed a CSMP questionnaire that will need  
23 to be completed by all of our existing customers."  
24 Do you know what that questionnaire was?  
25 MR. KOBRIN: Object to form.

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1 THE WITNESS: I may have some  
2 recollection of that.  
3 BY MR. ROTTINGHAUS:  
4 Q. Then if you go to the email right above  
5 that, it appears to be from Joe to Greg and,  
6 again, I think you might be copied on this. And  
7 it says, "Greg, I think that you, Dan, George" --  
8 and I'm assuming he's referring to you when he  
9 says George.  
10 A. Yes.  
11 Q. -- "and I need to get together to review  
12 and respond to this request form."  
13 And then he states, "They have definitely  
14 strengthened the information that they require  
15 before increasing the controlled drug thresholds."  
16 MR. KOBRIN: Object to form.  
17 BY MR. ROTTINGHAUS:  
18 Q. Did I read that correctly?  
19 A. Yes.  
20 Q. Does it appear to you at least as of  
21 2013 that McKesson was changing the requirements  
22 to increase thresholds for certain medications, or  
23 do you know?  
24 A. Changing requirements, I'm not  
25 necessarily sure that I believe they were changing

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1 any requirements.  
2 Q. Do you have a memory that as of 2013,  
3 there were some companies, particularly  
4 distributors, that had some type of threshold  
5 system in place to help them determine when an  
6 order might exceed what a typical order had been  
7 for a controlled substance?  
8 MR. KOBRIN: Object to form.  
9 THE WITNESS: I do have a recollection  
10 of that, yes.  
11 BY MR. ROTTINGHAUS:  
12 Q. In fact, at some point in time in 2013,  
13 it's your understanding that HBC warehouse started  
14 recording on a daily basis orders that exceeded  
15 thresholds; is that right?  
16 A. Yes.  
17 Q. And that was in October of 2013 that  
18 went out as I understand it.  
19 A. I'm not exactly sure of which month in  
20 2013, but a general area or a general timeframe  
21 would be that.  
22 Q. To help refresh your memory as you got  
23 ready for this deposition, did you take a look at  
24 any of the daily threshold reports or daily  
25 control reports as I think they are sometimes

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1 called?

2 A. I did, yes.

3 Q. So you know what I'm talking about when

4 I talk about those daily control reports?

5 A. Yes.

6 Q. We're going to talk about those in a

7 little more detail in a minute. Right now I'm

8 going to ask to refer you to a document we have

9 marked as Exhibit 6.

10 (HBC-Chunderlik Exhibit 6 was marked.)

11 BY MR. ROTTINGHAUS:

12 Q. I'm going to focus on the first page of

13 this document. Are you with me?

14 A. Yes, I am.

15 Q. This is an email from Shawn Voyten.

16 A. Yes.

17 Q. And Shawn is with the Giant Eagle -- was

18 with Giant Eagle at the time?

19 A. At this period of time, yes.

20 Q. And you were one of the individuals this

21 email was sent to along with Mr. Millward and

22 Mr. Mollica; correct?

23 A. Correct, yes.

24 Q. And basically, it looks to me, and take

25 your time to review it if you want to, but it

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1 looks like he's just referencing a CVS news story;

2 is that right?

3 MR. KOBRIN: Object to form.

4 THE WITNESS: It appears so, yes.

5 BY MR. ROTTINGHAUS:

6 Q. The second sentence -- let's focus on

7 the second sentence from him. He sends this email

8 to everyone. He references first that a gentleman

9 named Paul Callahan sent the article; correct?

10 A. Yes.

11 Q. And then he says, "Very powerful message

12 from CVS." Did I read that correctly?

13 A. Yes.

14 Q. Then if we go down five paragraphs,

15 there's a paragraph that starts with "Abuse of

16 opioid..."

17 A. Yes.

18 Q. And here, at least according to this

19 article that Mr. Voyten has sent to you, it says,

20 "Abuse of opioid prescription pain killers

21 like Oxycontin ranks as the number two cause of

22 accidental death in the United States according to

23 CVS."

24 Is that right?

25 A. That's what it says, yes.

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1 Q. Do you remember whether in 2013 -- and

2 this was the time when you were manager of

3 compliance; correct?

4 A. Yes.

5 Q. Do you remember whether you were

6 surprised to find out that abuse of opioid

7 prescription painkillers was one of the leading

8 causes of accidental death in the United States?

9 A. I can't recall if I was surprised by

10 that or not.

11 Q. Would it be fair to say that you already

12 were aware that it was a problem in the United

13 States?

14 A. In general, I knew that it was a

15 problem.

16 (HBC-Chunderlik Exhibit 7 was marked.)

17 BY MR. ROTTINGHAUS:

18 Q. Let's look at what we've marked as

19 Exhibit 7. Again, this is another one of those

20 documents that's larger than I wish it was, but

21 we've made copies. I'm going to give your

22 attorney a chance to give you the original one

23 that we've marked with the exhibit sticker.

24 I'm going to focus you on the first page for

25 a second. Again, I don't want to rush you if you

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1 want to look at more of this. Okay?

2 A. Okay.

3 Q. The first page appears to be from

4 Mr. Millward to a couple of gentlemen, and then

5 you're copied. You're one of two people who are

6 copied or carbon copied on the email; correct?

7 A. That is correct.

8 Q. What Mr. Millward appears to be

9 referencing is two presentations that were given

10 at the DEA's -- what this appears to be

11 referencing is a couple of presentations that were

12 given at a recent DEA distributor conference that

13 he and Matt Rogos had attended.

14 A. Yes.

15 Q. And this is in 2013?

16 A. I would believe that to be correct.

17 Q. Do you remember whether you would have

18 been invited to attend that conference?

19 A. I do not recall that, that I was invited

20 to go to that conference.

21 Q. Sitting here today, are you pretty

22 confident you did not go to that conference?

23 A. I'm confident that I did not go to that

24 conference, yes.

25 Q. Mr. Millward then references some slides

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<p>1 that he pulled from the DEA website; is that 2 right? 3 A. He does reference that, yes. 4 Q. We're going to go to -- we're going to 5 move into this document a little bit. I'm not 6 going to bore you with every page, although if you 7 need to look at anything, I want you to feel free 8 to. 9 I'm going to go to in the top right-hand 10 corner what is marked as -- well, actually, I'm 11 going to go to the bottom right-hand corner and 12 I'm going to reference -- I'm going to ask our 13 presentation person how many numbers he needs on 14 this. 15 While he's looking, I will tell you you'll 16 see in the bottom right-hand corner of the actual 17 slides there are numbers. 18 A. Yes. 19 Q. I'm at one that says 19. 20 A. The last two digits? 21 Q. Maybe your attorney can show you. 22 MR. ROTTINGHAUS: Do you see what I'm 23 talking about at the bottom? Maybe not every 24 slide has it. 25 MR. KOBRIN: Oh, yeah, I know what</p>	<p>1 normal pattern? 2 A. Yes. 3 Q. Or orders of unusual frequency? 4 A. Yes. 5 Q. That's language you've seen in the Code 6 of Federal Regulations and other documents as well 7 already by that point in time? 8 A. I have, yes. 9 Q. So none of this is new to you; right? 10 A. That's correct. 11 Q. And then the DEA at the bottom of this 12 says, "These criteria are disjunctive. They can 13 stand alone or together." Correct? 14 A. Yes. 15 Q. First of all, do you remember seeing 16 this presentation when it was sent to you by 17 Mr. Millward in 2013? 18 A. I do have a recall of this presentation, 19 yes. 20 Q. And as the manager of compliance for 21 Giant Eagle and the HBC warehouse, you would want 22 to make sure that if there was any new information 23 in this presentation, you were aware of it; 24 correct? 25 A. Yes.</p>
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<p>1 you're talking about. 160 is the last three Bates 2 numbers; is that right? 3 MR. ROTTINGHAUS: Yes. 4 BY MR. ROTTINGHAUS: 5 Q. Are you with me on that slide that's 6 number 19? 7 A. Yes. 8 Q. I don't think I'm going to be showing 9 you anything you haven't seen before, but I want 10 to just ask you about this. 11 On this slide that it appears Mr. Millward 12 pulled from the DEA's website, it provides some 13 guidance as to what suspicious orders can include; 14 is that right? 15 A. It does, yes. 16 Q. And you at least are aware when we're 17 talking about suspicious orders right now, we're 18 talking about suspicious orders of controlled 19 substances? 20 A. Yes. 21 Q. And at least according to this slide, 22 suspicious orders can include orders of unusual 23 size; correct? 24 A. Yes. 25 Q. Or orders deviating substantially from a</p>	<p>1 Q. Do you remember whether at any point in 2 time in late 2013 or early 2014 you asked anyone 3 whether there was any system in place to make sure 4 that the HBC warehouse had guidance on how to 5 detect possible suspicious orders? 6 MR. KOBRIN: Object to form. 7 THE WITNESS: I don't recall that 8 specifically. 9 BY MR. ROTTINGHAUS: 10 Q. I'm sorry. Did you say you do not? 11 A. I do not recall that specifically. 12 Q. Let's focus for a second on the 13 timeframe of 2012 to 2014. To your knowledge, 14 other than the daily control reports that would 15 report thresholds, and again we're going to look 16 at that in a minute, are you aware of any other 17 documentation that was created by HBC warehouse or 18 on behalf of HBC warehouse by anyone at Giant 19 Eagle concerning any orders that might be of 20 unusual size, orders that deviated substantially 21 from a normal pattern or orders of an unusual 22 frequency? 23 MR. KOBRIN: Object to form. 24 THE WITNESS: I'm not aware of any 25 document.</p>

<p style="text-align: right;">Page 102</p> <p>1 BY MR. ROTTINGHAUS:</p> <p>2 Q. If any such documents were created on a</p> <p>3 regular basis, it sounds as if they did not go to</p> <p>4 you; is that correct?</p> <p>5 A. That's correct.</p> <p>6 Q. And since you were indeed the manager of</p> <p>7 compliance, is it your belief that if such</p> <p>8 documents had been created, they would have gone</p> <p>9 to you?</p> <p>10 MR. KOBRIN: Object to form.</p> <p>11 THE WITNESS: I'm not sure because I was</p> <p>12 a part of a compliance team.</p> <p>13 BY MR. ROTTINGHAUS:</p> <p>14 Q. You were the manager; correct?</p> <p>15 A. That's correct.</p> <p>16 Q. Can you think of anyone else they could</p> <p>17 have gone to other than the manager of compliance?</p> <p>18 A. The next person I would think of would</p> <p>19 be Joe Millward and/or it could have been Greg</p> <p>20 Carlson who had some warehouse -- at that time</p> <p>21 some warehouse responsibilities.</p> <p>22 Q. Can you think of anyone else they would</p> <p>23 have gone to?</p> <p>24 A. It may have gone to the warehouse</p> <p>25 manager.</p>	<p style="text-align: right;">Page 104</p> <p>1 Q. Was that document prepared back in 2012?</p> <p>2 A. I believe so, yes.</p> <p>3 Q. Have you seen that document in getting</p> <p>4 ready for your deposition?</p> <p>5 A. I did not look at that document in</p> <p>6 getting ready for this deposition, no.</p> <p>7 Q. Did you ask to see that document?</p> <p>8 A. I did not.</p> <p>9 Q. Do you know if that document still</p> <p>10 exists?</p> <p>11 A. It may.</p> <p>12 Q. When you say it may, do you know for</p> <p>13 sure?</p> <p>14 A. I believe so.</p> <p>15 Q. When did you last see it?</p> <p>16 A. It's been a while. I can't -- I can't</p> <p>17 come up with the exact timeframe.</p> <p>18 Q. And you're sure it existed in 2012 when</p> <p>19 you became manager of compliance?</p> <p>20 A. Yes.</p> <p>21 Q. Do you remember what it said?</p> <p>22 A. Not specifically.</p> <p>23 Q. Did it reference any duty you would have</p> <p>24 to oversee compliance by the HBC warehouse?</p> <p>25 MR. KOBRIN: Object to form. Assumes</p>
<p style="text-align: right;">Page 103</p> <p>1 Q. Mr. Durr?</p> <p>2 A. Yes.</p> <p>3 Q. Can you think of anyone else?</p> <p>4 A. If there was a warehouse supervisor, he</p> <p>5 may have seen something like that.</p> <p>6 Q. If you had been aware, and I'm not</p> <p>7 suggesting there were, but if you were aware of</p> <p>8 any such documents being prepared whenever someone</p> <p>9 was trying to determine if there was an order of</p> <p>10 unusual size or an order that deviated</p> <p>11 substantially from a normal pattern or an order of</p> <p>12 unusual frequency, had you known that such</p> <p>13 documentation existed, would you have requested</p> <p>14 that it come to you also as manager of compliance?</p> <p>15 MR. KOBRIN: Object to form.</p> <p>16 THE WITNESS: I'm not necessarily sure</p> <p>17 that I would do that.</p> <p>18 BY MR. ROTTINGHAUS:</p> <p>19 Q. Did you have any written guidance for</p> <p>20 you as to what your duties really were as manager</p> <p>21 of compliance?</p> <p>22 A. A job description, yes.</p> <p>23 Q. Who prepared that job description?</p> <p>24 A. Human resources in conjunction with</p> <p>25 myself and Anthony Mollica.</p>	<p style="text-align: right;">Page 105</p> <p>1 facts not in evidence.</p> <p>2 THE WITNESS: Not oversee --</p> <p>3 MR. KOBRIN: Let me make sure I get my</p> <p>4 objection in.</p> <p>5 He already stated that he didn't specifically</p> <p>6 remember what it stated.</p> <p>7 BY MR. ROTTINGHAUS:</p> <p>8 Q. Do you recall whether it provided any</p> <p>9 guidance as to what your responsibilities would</p> <p>10 be, if any, in overseeing compliance by the HBC</p> <p>11 warehouse?</p> <p>12 MR. KOBRIN: Object to form.</p> <p>13 THE WITNESS: Not specifically that I</p> <p>14 can remember exact specific details.</p> <p>15 BY MR. ROTTINGHAUS:</p> <p>16 Q. Do you remember if the HBC warehouse is</p> <p>17 even referenced in this document you're talking</p> <p>18 about?</p> <p>19 MR. KOBRIN: Object to form.</p> <p>20 THE WITNESS: I believe it was, yes.</p> <p>21 BY MR. ROTTINGHAUS:</p> <p>22 Q. And how do you believe it was?</p> <p>23 A. In reviewing the job description at that</p> <p>24 the period of time.</p> <p>25 Q. So indeed that document said you would</p>

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1 have responsibility as manager of compliance for  
2 the HBC warehouse?  
3 A. As part of a collaborative team.  
4 Q. Did it discuss or did it specifically  
5 say as part of --  
6 A. That would be my understanding. I'm  
7 sorry.  
8 Q. Did the document specifically say that  
9 you would be part of a collaborative team in  
10 overseeing the duties of compliance by HBC  
11 warehouse?  
12 MR. KOBRIN: Object to form.  
13 THE WITNESS: I don't know I recall that  
14 that was the exact language that was used.  
15 BY MR. ROTTINGHAUS:  
16 Q. And, again, you think this document  
17 still exists and would -- first of all, you think  
18 the document does still exist?  
19 A. I believe it does, yes.  
20 Q. Do you believe it would help refresh  
21 your recollection as to what you agreed upon as  
22 your duties as manager of compliance if you could  
23 see that document again?  
24 A. It may help, yes.  
25 Q. You don't have it with you today, do

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1 you?  
2 A. I do not.  
3 Q. I'm going to show you a document we have  
4 marked as Exhibit 8, I think. Let me make sure.  
5 I may not need this. Forgive me. I'm not going  
6 to show you that document right now. I am going  
7 to show it to you, but not now.  
8 We've already talked about it a little bit,  
9 but you're familiar with the term thresholds as  
10 that might relate to daily orders of controlled  
11 substances?  
12 A. Yes.  
13 Q. And when HBC enacted a daily control  
14 report that reported orders exceeding thresholds  
15 for certain controlled substances, do you have a  
16 memory as to how it calculated the thresholds?  
17 A. I do have a vague memory of it. I can  
18 recall certain aspects of it, of the formula.  
19 Q. The company has provided testimony  
20 through someone as a representative of the  
21 company, and my understanding from hearing that  
22 individual is that the daily threshold reports  
23 were calculated by taking three times the 12-month  
24 average prior to that day's report and determining  
25 whether controlled substances indeed exceeded

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1 three times the average.  
2 A. I believe that to be correct, yes.  
3 Q. So in order for any controlled substance  
4 to show up on those daily threshold reports, the  
5 order already had to exceed three times what the  
6 average had been over the last year for that  
7 substance; is that correct?  
8 A. That would be correct, yes.  
9 Q. Did you have any involvement in deciding  
10 upon how that threshold would be calculated?  
11 A. I don't recall. I might have been in  
12 some conversations, but I don't recall specifics  
13 about those conversations.  
14 Q. Do you remember whether you were the  
15 individual who said they wanted to have a daily  
16 control report that showed what drugs were  
17 exceeding thresholds?  
18 MR. KOBRIN: Object to form.  
19 THE WITNESS: I don't believe I was -- I  
20 requested that form on my own volition.  
21 BY MR. ROTTINGHAUS:  
22 Q. Did you at any point in time from 2012  
23 through 2014 receive any training or guidance  
24 regarding red flags to look for in determining  
25 whether orders might indeed be suspicious orders?

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1 A. Formal training, I wouldn't say formal  
2 training, but just in various articles that I may  
3 have read or in collaborating with the other  
4 colleagues that I had.  
5 Q. When I say red flags, I know that's kind  
6 of a colloquial term, but you understand what I  
7 mean when I'm talking about suspicious orders and  
8 red flags?  
9 A. Yes.  
10 Q. In other words, things to maybe just be  
11 on the lookout for for particular orders of  
12 controlled substances.  
13 A. Yes.  
14 Q. And you were aware of that even before  
15 2012 before becoming manager of compliance;  
16 correct?  
17 MR. KOBRIN: Object to form.  
18 THE WITNESS: As part of the warehouse  
19 distribution, maybe not.  
20 (HBC-Chunderlik Exhibit 8 was marked.)  
21 BY MR. ROTTINGHAUS:  
22 Q. I'm going to show you now what we have  
23 marked Exhibit 8. It's, again, one of those  
24 documents I'm going to ask you just a couple of  
25 things, but it's fairly large.



<p style="text-align: right;">Page 110</p> <p>1 MR. ROTTINGHAUS: I think before we get          2 into this, we're going to go off the record real          3 quick because we have to change the videotape.          4 MR. KOBRIN: Take a break?          5 MR. ROTTINGHAUS: If you guys want to or          6 you want to keep moving for a little bit, I'll get          7 through this.          8 THE VIDEOGRAPHER: The time is          9 11:13 a.m. We're going off the video record.          10 (Recess from 11:13 a.m. to 11:38 a.m.)          11 THE VIDEOGRAPHER: The time is          12 11:38 a.m. We are now back on the video record.          13 BY MR. ROTTINGHAUS:          14 Q. Mr. Chunderlik, right before we took a          15 break, I think I may have referred to a document          16 we have marked as Exhibit No. 8. Do you have that          17 in front of you?          18 A. I do, yes.          19 Q. Let's look at the first page of that          20 document. This appears to be either an email or          21 some type of forward from Anthony Mollica to you          22 on May 1, 2012; is that correct?          23 A. That's correct.          24 Q. And it references the Anda Supply Chain          25 Symposium.</p>	<p style="text-align: right;">Page 112</p> <p>1 forwarded to you, you believe you did see some of          2 this document, if not all of it?          3 A. Yes.          4 Q. Let's look at what I had just referred          5 to as this page 5, which appears to be a          6 PowerPoint slide. Does it appear to you as well?          7 A. It does.          8 Q. And I understand this is not a document          9 that was prepared by Giant Eagle or HBC, but this          10 is a document that Mr. Mollica brought back with          11 him from the supply chain symposium; correct?          12 A. I believe so, yes.          13 MR. KOBRIN: Object to form.          14 BY MR. ROTTINGHAUS:          15 Q. That's your understanding?          16 A. That's my understanding.          17 Q. And that's your memory from 2012?          18 A. Yes.          19 Q. Now, at least on this slide it appears          20 to be, again, referencing some of the duties of a          21 distributor of controlled substances; is that          22 right?          23 A. Yes.          24 Q. And it specifically is referencing          25 Section 1301.74(a) and (b) of the Code of Federal</p>
<p style="text-align: right;">Page 111</p> <p>1 A. Yes.          2 Q. Do you recall whether you personally had          3 attended the Anda Supply Chain Symposium?          4 A. I did not attend this symposium.          5 Q. Now, in May of 2012, it's my          6 understanding that you had not yet become the          7 manager of compliance; is that correct?          8 A. To the best of my recollection, that is          9 correct, yes.          10 Q. If we could now, let's go to -- there          11 are lengthy numbers in the bottom right-hand          12 corner of each of these documents. I may have          13 referred your attorney to the page I'm going to          14 reference. There's also a number five at the          15 bottom right-hand corner. Do you see that?          16 A. Yes.          17 MR. ROTTINGHAUS: The Bates numbers are          18 4413.          19 BY MR. ROTTINGHAUS:          20 Q. Before I actually ask you any questions          21 about this, do you know whether you ever looked at          22 this document back in May of 2012?          23 A. I have a recollection that I may have          24 reviewed it, yes.          25 Q. So at least as of 2012 when this was</p>	<p style="text-align: right;">Page 113</p> <p>1 Regulations.          2 A. Yes.          3 Q. Let's look for a second at subsection          4 (b) of this document. Once again, we're going to          5 see language that you have seen before; correct?          6 A. Yes.          7 Q. And this is, again, restating what the          8 Code of Federal Regulations says, and that is that          9 the registrant shall design and operate a system          10 to disclose to the registrant suspicious orders of          11 controlled substances; correct?          12 A. Correct.          13 Q. And then it goes on.          14 If you'll go to the next page of this, in          15 bold face it says SOM Measurements; correct?          16 A. Yes.          17 Q. Do you believe SO stands for suspicious          18 orders?          19 A. I believe so, yes.          20 Q. Now, as you look at the different topics          21 on this slide, the first thing we see is          22 controlled versus noncontrolled. Then we see cash          23 payment versus third-party payment; correct?          24 A. Yes.          25 Q. Is it your understanding that this slide</p>

<p style="text-align: right;">Page 114</p> <p>1 is conveying a belief, for lack of a better term,          2 that a potential red flag might be when          3 individuals are paying for controlled substances          4 with cash?          5 MR. KOBRIN: Object to form.          6 BY MR. ROTTINGHAUS:          7 Q. Rather than through insurance.          8 MR. KOBRIN: Object to form.          9 THE WITNESS: I'm not sure what the          10 intent of the person who put this presentation          11 together -- if that was the intent or not.          12 BY MR. ROTTINGHAUS:          13 Q. Does that make sense to you, that that          14 could be a red flag when people are paying with          15 cash versus third-party payments?          16 A. It could be.          17 Q. That's something you were aware of back          18 in 2012; correct?          19 A. Yes.          20 Q. A potential red flag?          21 A. Correct.          22 Q. And then it goes on to list other          23 measurements as well; does it not?          24 A. It does.          25 Q. Now, at any point in 2012 at the time</p>	<p style="text-align: right;">Page 116</p> <p>1 right now. I'll hand that to your attorney. Are          2 you with me?          3 A. Yes, I am.          4 Q. Exhibit 9 appears to be some type of          5 either email or calendar invite from you; correct?          6 A. That is correct.          7 Q. To different individuals at Giant Eagle?          8 A. Yes.          9 Q. And the subject lines says Narcotic          10 Audit Application.          11 A. Yes.          12 Q. And this is dated January 9, 2013?          13 A. That's correct.          14 Q. And, again, this is at a point where you          15 are indeed manager of compliance?          16 A. Yes.          17 Q. And you're referencing some documents          18 for a conference call among participants regarding          19 the narcotic audit application.          20 A. That's correct.          21 Q. Do you remember this document?          22 A. I do.          23 Q. Let's look at the second page of this          24 document. At the top it says Store Requirements          25 Summary; correct?</p>
<p style="text-align: right;">Page 115</p> <p>1 you became manager of compliance for Giant Eagle          2 and the HBC warehouse, did you share with          3 individuals at HBC warehouse some of the          4 measurements or some of the factors that should be          5 taken into consideration in determining whether an          6 order might indeed be a suspicious order?          7 MR. KOBRIN: Object to form.          8 THE WITNESS: Restate that question one          9 more time.          10 BY MR. ROTTINGHAUS:          11 Q. At any point in time after you took over          12 as manager of compliance in 2012, did you share in          13 writing any potential red flags that anyone at HBC          14 warehouse should be looking for in an effort to          15 determine whether any order could indeed be a          16 suspicious order?          17 MR. KOBRIN: Object to form.          18 THE WITNESS: I am not aware that          19 anything was communicated to the warehouse. But          20 I'm not -- I don't have a recollection that I did          21 any of that.          22 (HBC-Chunderlik Exhibit 9 was marked.)          23 BY MR. ROTTINGHAUS:          24 Q. We may come back to this, but we're          25 going to look at another document, Exhibit 9,</p>	<p style="text-align: right;">Page 117</p> <p>1 A. Yes.          2 Q. Do you remember whether you authored          3 this document?          4 A. I did, yes.          5 Q. You correct me if I'm wrong, but as I          6 read through this document, it's my understanding          7 that what you are trying to do is communicate in          8 writing some of the requirements of the stores in          9 connection with the narcotic audit application; is          10 that right?          11 A. That is correct.          12 Q. Why did you want to put this in writing?          13 A. Because these are procedures that were          14 new to the store as to the application that we          15 were using, and I wanted to make sure that we had          16 something to follow along during the conference          17 call.          18 Q. And would this be something that could          19 that way be communicated in a uniform manner to          20 all of the stores?          21 MR. KOBRIN: Object to form.          22 THE WITNESS: Yes.          23 BY MR. ROTTINGHAUS:          24 Q. Again, you wanted it in writing so          25 everybody at every store could see what the</p>

<p style="text-align: right;">Page 118</p> <p>1 expectation was; correct?</p> <p>2 A. Yes.</p> <p>3 Q. And then if there were questions, any</p> <p>4 individual at any store could pick up the phone</p> <p>5 and call you; right?</p> <p>6 A. They could, yes.</p> <p>7 Q. But they would also have something as</p> <p>8 guidance regarding the expectations in writing?</p> <p>9 A. Yes.</p> <p>10 Q. And that would be a resource for them;</p> <p>11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. And you felt this would be helpful?</p> <p>14 A. I thought it would be helpful, yes.</p> <p>15 Q. You wouldn't have prepared it if you</p> <p>16 didn't think it would be helpful?</p> <p>17 A. It was a new application, and I wanted</p> <p>18 to make sure that everybody understood. The</p> <p>19 application that we were using was brand new. I</p> <p>20 wanted to make sure that they understood various</p> <p>21 aspects of that program.</p> <p>22 Q. And it was easier, in your opinion, to</p> <p>23 make sure that was put in writing for everyone so</p> <p>24 that uniformly they would all understand how to</p> <p>25 use this application; correct?</p>	<p style="text-align: right;">Page 120</p> <p>1 little more clear as to does that include emails,</p> <p>2 other memos, or are you only talking about</p> <p>3 specific official policies?</p> <p>4 MR. ROTTINGHAUS: Fair enough. Let's</p> <p>5 ask it again.</p> <p>6 BY MR. ROTTINGHAUS:</p> <p>7 Q. I believe you told me before that you do</p> <p>8 not have any memory of any red flags being</p> <p>9 provided as guidance in writing to any individuals</p> <p>10 at HBC warehouse by you between 2012 and 2014; am</p> <p>11 I correct?</p> <p>12 MR. KOBRIN: Object to form.</p> <p>13 THE WITNESS: Not by me.</p> <p>14 BY MR. ROTTINGHAUS:</p> <p>15 Q. So what I said is correct?</p> <p>16 A. There may be others, but not by me.</p> <p>17 Q. And when you say there may be others,</p> <p>18 are you specifically aware of anything in writing</p> <p>19 that was provided to individuals at HBC warehouse</p> <p>20 regarding red flags to look for when determining</p> <p>21 whether an order might indeed be a suspicious</p> <p>22 order, or are you just speculating right now?</p> <p>23 MR. KOBRIN: Object to form.</p> <p>24 THE WITNESS: There are a lot of</p> <p>25 documents that were in circulation. I may not</p>
<p style="text-align: right;">Page 119</p> <p>1 A. This particular application, yes.</p> <p>2 (HBC-Chunderlik Exhibit 10 was marked.)</p> <p>3 BY MR. HUDSON:</p> <p>4 Q. I've handed to your attorney what we've</p> <p>5 marked as Exhibit 10. Now, I believe you told me</p> <p>6 before that you don't recall between 2012 and 2014</p> <p>7 providing any written guidance regarding red flags</p> <p>8 that individuals at HBC warehouse should be</p> <p>9 looking for with respect to determining whether an</p> <p>10 order indeed is a suspicious order; correct?</p> <p>11 MR. KOBRIN: Object to form.</p> <p>12 THE WITNESS: Me specifically?</p> <p>13 BY MR. ROTTINGHAUS:</p> <p>14 Q. Yes.</p> <p>15 A. Not me specifically, but there may have</p> <p>16 been other individuals that provided information.</p> <p>17 Q. And again, we're talking about in</p> <p>18 writing right now. And are you able to tell us</p> <p>19 under oath that you are aware of anything in</p> <p>20 writing that was provided to provide guidance</p> <p>21 regarding red flags to look for at HBC warehouse</p> <p>22 between 2012 and 2014?</p> <p>23 MR. KOBRIN: Object to form. You're</p> <p>24 going to remind him he's under oath and</p> <p>25 everything. When you say in writing, can you be a</p>	<p style="text-align: right;">Page 121</p> <p>1 know the exact -- specifically what was in each of</p> <p>2 those documents, but there are quite a few</p> <p>3 documents. Specifics I can't attest to.</p> <p>4 BY MR. ROTTINGHAUS:</p> <p>5 Q. In fairness to you, I'm only asking what</p> <p>6 you know. And I don't expect you to be aware of</p> <p>7 documents if you haven't seen them before. But in</p> <p>8 fairness to me, I'm entitled to find out whether</p> <p>9 you are specifically aware of anything. And</p> <p>10 that's what I'm asking you. So I'll ask it again.</p> <p>11 Are you, Mr. Chunderlik, specifically aware</p> <p>12 of anything in writing being provided to any</p> <p>13 individuals at HBC warehouse by you or at your</p> <p>14 direction regarding red flags to look for when</p> <p>15 attempting to determine whether an order might be</p> <p>16 a suspicious order between 2012 and 2014?</p> <p>17 A. Not by me specifically.</p> <p>18 MR. KOBRIN: Object to form.</p> <p>19 THE WITNESS: Not by me specifically.</p> <p>20 BY MR. ROTTINGHAUS:</p> <p>21 Q. And you say "not by me specifically."</p> <p>22 But in all fairness, you're not even sure if there</p> <p>23 was anything in writing provided by anyone during</p> <p>24 that timeframe regarding red flags; correct?</p> <p>25 MR. KOBRIN: Object to form. I think he</p>

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1 said he thought there were things in circulation  
2 and in writing during that time period.  
3 THE WITNESS: Specifically, I don't know  
4 what was in those particular documents. But there  
5 are a lot of documents in the warehouse from  
6 individuals at Giant Eagle.  
7 BY MR. HUDSON:  
8 Q. And your attorney can try to tell you  
9 what to say all he wants, but the reality is under  
10 oath, you can't tell us that you are specifically  
11 aware of any; correct?  
12 MR. KOBRIN: I object to that.  
13 THE WITNESS: I cannot tell that.  
14 BY MR. ROTTINGHAUS:  
15 Q. So referring to Exhibit 10, to make sure  
16 that nobody is confused here, I'm referring to a  
17 document that's after 2014. This is an email  
18 dated August 20, 2015. Okay?  
19 A. Yes.  
20 Q. Now, this is after a point in time when  
21 HBC warehouse had stopped distributing any  
22 Schedule IIIs including hydrocodone combination  
23 products; correct? Let me back up. I may have  
24 misstated something.  
25 This document was created at a point in time

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1 when HBC warehouse was no longer distributing  
2 hydrocodone combination products; correct?  
3 A. That is correct.  
4 Q. Because they stopped doing so in 2014;  
5 correct?  
6 A. That is correct, yes.  
7 Q. This is an email from Mr. -- at the top  
8 it's from Mr. Carlson, and he sends it to a few  
9 individuals, and I don't see your name on there.  
10 Correct?  
11 A. That is correct.  
12 Q. You'll see why I'm asking you about this  
13 document in just a second. But what Mr. Carlson  
14 says is, "Jill and Cheryl, see the guardrails by  
15 Emdeon below"; correct?  
16 A. Yes.  
17 Q. And I'm not going to read the rest of  
18 that sentence right now. Right below that email  
19 appears to be an email from Mr. Millward dated the  
20 same date. And on this email you are one of  
21 several recipients; correct?  
22 A. Yes.  
23 Q. And this is an email from Mr. Millward,  
24 and he's distributing his notes from a recent  
25 Thrifty White visit?

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1 A. Correct.  
2 Q. Do you remember this email?  
3 A. I have a vague recollection of this  
4 email, yes.  
5 Q. And you did indeed receive it at the  
6 time; correct?  
7 A. Yes.  
8 Q. If we look at paragraph one, the first  
9 thing in the notes in paragraph number one, it  
10 states, "Keep engaged with the DEA through all  
11 steps in the process."  
12 A. Correct.  
13 Q. And that makes sense to you; right?  
14 A. Yes.  
15 Q. And that's what you would have told  
16 anybody asking you how to keep the DEA happy. You  
17 would say "Keep them engaged"; correct?  
18 MR. KOBRIN: Object to form.  
19 THE WITNESS: It would stand -- I would  
20 agree to that.  
21 BY MR. ROTTINGHAUS:  
22 Q. I mean, you don't disagree with that  
23 statement; right?  
24 A. No. I don't disagree with that.  
25 Q. And then paragraph number two, read for

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1 me what that first sentence says.  
2 A. "It is critical to have a robust  
3 suspicious order monitoring program."  
4 Q. And, again, as of 2015, you had no  
5 reason to disagree with that statement either, did  
6 you?  
7 A. No.  
8 Q. And then it states, "Relying on  
9 thresholds is not good enough for the DEA."  
10 Correct?  
11 A. It does say that, yes.  
12 Q. And you agree with that as well; right?  
13 A. Yes.  
14 Q. If you go down a couple of paragraphs,  
15 there are some examples of -- it says Examples of  
16 Flags; correct?  
17 A. Yes.  
18 Q. As you read this, do you believe that  
19 Mr. Millward is probably referencing examples of  
20 red flags?  
21 A. I would believe so.  
22 Q. And one of those examples is form of  
23 payment, and it the states cash versus medical  
24 insurance; correct?  
25 A. Correct.



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1 Q. And we talked about that before. And  
2 you agree that an example of a red flag for  
3 purposes of determining whether an order might be  
4 suspicious is what percentage or what share of a  
5 pharmacy's clients are paying with cash versus  
6 utilizing medical insurance; right?  
7 MR. KOBRIN: Object to form.  
8 Misrepresents the evidence.  
9 BY MR. ROTTINGHAUS:  
10 Q. I'm asking for your personal experience.  
11 In your experience --  
12 A. Could you rephrase your question.  
13 Q. You worked on the retail pharmacy side  
14 for a long time; correct?  
15 A. Yes.  
16 Q. And as of 2015, you were aware --  
17 A. In the retail -- I worked in the  
18 corporate office from 1990 to the present. I  
19 didn't work necessarily as a dispensing pharmacist  
20 at that point in time.  
21 Q. You did at some point work as a  
22 dispensing pharmacist.  
23 A. From 1990, from 1980 to 1990.  
24 Q. And after 1990, you were heavily  
25 involved in training pharmacy technicians?

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1 A. Correct.  
2 Q. And individuals who would be training  
3 pharmacists and pharmacy technicians; correct?  
4 A. Yes.  
5 Q. And one thing you were aware of at least  
6 as of 2015 was that if a pharmacy has clients  
7 coming into the pharmacy and a majority of them  
8 are paying with cash versus medical insurance,  
9 that could, could be a red flag for a suspicious  
10 order; correct?  
11 A. Possible.  
12 Q. So you have no reason to disagree with  
13 that being an example of a potential red flag?  
14 A. No.  
15 Q. And then also under that statement of  
16 examples is paragraph number two, and it says,  
17 "Geographical relationship of the prescriber and  
18 patient to the pharmacy"; correct?  
19 A. Correct.  
20 Q. And you tell me if you agree or  
21 disagree. But if a pharmacy has patients driving  
22 from hundreds of miles away to refill  
23 prescriptions at that pharmacy and the pharmacy is  
24 then ordering medications from HBC warehouse, you  
25 would want HBC warehouse to at least be cognizant

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1 of that; correct?  
2 MR. KOBRIN: Object to form.  
3 THE WITNESS: I would agree with that.  
4 BY MR. ROTTINGHAUS:  
5 Q. In other words, you've heard of the  
6 phrase doctor shopping; correct?  
7 A. I have.  
8 Q. And you're aware of the concept that  
9 sometimes individuals who have a problem abusing  
10 prescription medications will sometimes try to  
11 take medication prescriptions to different  
12 pharmacies until they can get them filled;  
13 correct?  
14 A. I have, yes.  
15 Q. And you are aware not just in 2015, but  
16 in 2009, 2010, 2012 that if a pharmacy had  
17 patients driving a long distance just to come to  
18 one particular pharmacy to get their medication  
19 refilled, that could be a sign of a suspicious  
20 order; correct?  
21 A. Could be.  
22 Q. And then paragraph number three  
23 discusses combinations of the controls being  
24 dispensed. And you're aware that hydrocodone  
25 combination products can be prescribed in

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1 different amounts; correct?  
2 A. Yes.  
3 Q. Is one of them a 30 milligram?  
4 A. Not 30 milligram, no.  
5 Q. Do you remember the different  
6 measurements of hydrocodone in the hydrocodone  
7 combination products?  
8 A. Yes.  
9 Q. Some are larger dosages of hydrocodone  
10 than others?  
11 A. Yes.  
12 Q. And if a pharmacy is ordering an  
13 inordinate number of high dose hydrocodone  
14 combination products, in other words, a high dose  
15 of the hydrocodone in that medication, that could  
16 be also a red flag for a suspicious order;  
17 correct?  
18 MR. KOBRIN: Object to form. Are you  
19 talking about the pharmacies ordering from the  
20 warehouse?  
21 MR. ROTTINGHAUS: Yes.  
22 MR. KOBRIN: Misrepresents the evidence.  
23 THE WITNESS: Could you restate the  
24 question.  
25

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1 BY MR. ROTTINGHAUS:  
2 Q. Let me ask you: You said you got this  
3 email back in 2015. Where you see paragraph three  
4 referencing "combination of controls being  
5 dispensed," what do you interpret that to mean?  
6 A. I'm not sure what Joe meant by that. It  
7 would be only speculation on my part, but  
8 combination of controls could be more than one  
9 control, not necessarily a combination product.  
10 Q. In other words, it could be hydrocodone  
11 and another controlled substance?  
12 A. Not necessarily hydrocodone, but there  
13 could be other controlled substances, other  
14 medication as well.  
15 Q. Did you have any questions about what he  
16 was communicating at the time in 2015 when he sent  
17 this email to you?  
18 A. Not specifically, no.  
19 Q. Do you remember picking up the phone or  
20 walking down to his office and asking him what he  
21 was talking about and why he was sending you these  
22 notes?  
23 A. Joe and I worked very closely together.  
24 And I did not have any reason -- our cubicles were  
25 pretty much right next to each other. So there

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1 was no reason for me to specifically go to his  
2 area to inquire about this.  
3 Q. In part because you already knew what  
4 red flags to look for; is that right?  
5 A. I had an idea, yes.  
6 Q. And again, however, that's not something  
7 that as of 2014 you had ever communicated to any  
8 individuals at the HBC warehouse in writing, to  
9 the best of your memory?  
10 MR. KOBRIN: Object to form. Asked and  
11 answered.  
12 BY MR. ROTTINGHAUS:  
13 Q. Correct?  
14 A. I have answered that question, yes.  
15 Q. The answer was I'm correct?  
16 A. Yes.  
17 (HBC-Chunderlik Exhibit 11 was marked.)  
18 BY MR. HUDSON:  
19 Q. I'm going to show you now what's been  
20 marked as Exhibit 11. I want to give you a chance  
21 to look at it before I ask you.  
22 Do you have Exhibit 11 in front of you, sir?  
23 A. Yes.  
24 Q. This is what I understand to be a daily  
25 threshold report. Is that your understanding as

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1 well?  
2 A. Yes.  
3 Q. There's been testimony in this case by a  
4 representative for the company that these reports  
5 started coming out in October of 2013.  
6 Do you have any reason to disagree with that?  
7 A. I do not, no.  
8 Q. Do you know whether you were a recipient  
9 on a regular basis of these daily threshold  
10 reports?  
11 A. Yes.  
12 Q. Did you get them every day?  
13 A. Yes.  
14 Q. Do you know why you were one of the  
15 individuals receiving these reports?  
16 A. Because I was part of the compliance  
17 team.  
18 Q. Do you know what the expectation was  
19 that you, Mr. Chunderlik, would do with these  
20 reports when you received them?  
21 A. I would review these reports when they  
22 came out every day.  
23 Q. And after you reviewed them, what was  
24 the expectation as to what you would do with them?  
25 A. I would review. If I felt that anything

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1 could be unusual, I would bring it to somebody's  
2 attention.  
3 Q. Well, isn't it fair to say that the fact  
4 that each of these medications on Exhibit 11 were  
5 indeed exceeding thresholds by three times could  
6 in and of itself be unusual?  
7 A. Taken from that one specific aspect, it  
8 can be.  
9 Q. So one thing you would want to do when  
10 you saw these daily threshold reports is make sure  
11 somebody was investigating these to make sure that  
12 indeed there was some explanation for why these  
13 orders were exceeding thresholds?  
14 MR. KOBRIN: Object to form.  
15 THE WITNESS: Restate that.  
16 BY MR. ROTTINGHAUS:  
17 Q. Sure. You expected someone to be  
18 investigating each of these orders that exceeded  
19 thresholds to determine why they were indeed  
20 exceeding thresholds; correct?  
21 MR. KOBRIN: Object to form.  
22 THE WITNESS: I'm not sure I would  
23 expect somebody to be looking at this report and  
24 reviewing it.  
25

<p style="text-align: right;">Page 134</p> <p>1 BY MR. ROTTINGHAUS:</p> <p>2 Q. Do you know who you would expect to be</p> <p>3 doing it as the manager of compliance?</p> <p>4 A. I was one of the persons who was</p> <p>5 reviewing this report as well as some of the other</p> <p>6 recipients of, and I don't know who else at the</p> <p>7 time was seeing these reports as well.</p> <p>8 Q. When you indeed did investigate why or</p> <p>9 whether any order was exceeding a daily threshold</p> <p>10 for a reason, did you try to document what you</p> <p>11 were doing to investigate that?</p> <p>12 A. No written documentation that I have a</p> <p>13 recollection of.</p> <p>14 Q. Are you able to tell us then what you</p> <p>15 did on a daily basis with respect to these daily</p> <p>16 threshold reports?</p> <p>17 A. I would review --</p> <p>18 MR. KOBRIN: Object to form.</p> <p>19 THE WITNESS: I would review each line</p> <p>20 to look at the store and determine if I felt that</p> <p>21 anything was unusual or out of line that would</p> <p>22 require further investigation.</p> <p>23 BY MR. ROTTINGHAUS:</p> <p>24 Q. Do you know whether there was an</p> <p>25 expectation that any of these controlled</p>	<p style="text-align: right;">Page 136</p> <p>1 various pharmacies and telling them do not</p> <p>2 dispense these medications until we are able to</p> <p>3 conduct due diligence to find out why this order</p> <p>4 was exceeding the daily threshold?</p> <p>5 MR. KOBRIN: Object to form.</p> <p>6 THE WITNESS: Could you repeat that?</p> <p>7 BY MR. ROTTINGHAUS:</p> <p>8 Q. Sure. Do you know whether there was an</p> <p>9 expectation that someone, someone on this</p> <p>10 compliance team you told us about, would be</p> <p>11 contacting these various pharmacies to find out</p> <p>12 why their orders were exceeding daily thresholds</p> <p>13 on a daily basis?</p> <p>14 MR. KOBRIN: Object to form.</p> <p>15 THE WITNESS: There were some instances</p> <p>16 when that did occur.</p> <p>17 BY MR. ROTTINGHAUS:</p> <p>18 Q. That's not my question. My question is:</p> <p>19 Do you know why there was an expectation that</p> <p>20 someone on the compliance team would be contacting</p> <p>21 these various pharmacies whose orders were</p> <p>22 exceeding thresholds on a daily basis?</p> <p>23 MR. KOBRIN: Object to form.</p> <p>24 THE WITNESS: I would say that's one of</p> <p>25 the reasons why we produced this report that that</p>
<p style="text-align: right;">Page 135</p> <p>1 substances that were exceeding thresholds on a</p> <p>2 daily basis would be shipped before someone did</p> <p>3 due diligence to find out why they were exceeding</p> <p>4 thresholds?</p> <p>5 A. Say that again.</p> <p>6 Q. Do you know whether there was an</p> <p>7 expectation as to whether these medications that</p> <p>8 were on this daily threshold report would indeed</p> <p>9 be shipped to the pharmacy before someone did due</p> <p>10 diligence to determine why they were exceeding the</p> <p>11 daily threshold?</p> <p>12 MR. KOBRIN: Object to form.</p> <p>13 THE WITNESS: If something was on the</p> <p>14 report, it had already been shipped.</p> <p>15 BY MR. ROTTINGHAUS:</p> <p>16 Q. In other words, there was not an</p> <p>17 opportunity to actually do the due diligence and</p> <p>18 find out why these medications were exceeding</p> <p>19 threshold before they had been shipped the way</p> <p>20 these threshold reports came out?</p> <p>21 A. That's correct.</p> <p>22 Q. They had already gone to the pharmacy?</p> <p>23 A. Yes.</p> <p>24 Q. Do you know whether there was an</p> <p>25 expectation that anyone would be contacting the</p>	<p style="text-align: right;">Page 137</p> <p>1 would happen.</p> <p>2 BY MR. ROTTINGHAUS:</p> <p>3 Q. Do you know who was expected to make --</p> <p>4 I'm sorry. Let me ask it again.</p> <p>5 Do you know who was expected to communicate</p> <p>6 with these various pharmacies to find out why</p> <p>7 their orders were exceeding daily thresholds?</p> <p>8 A. It could be a number of individuals,</p> <p>9 myself included.</p> <p>10 Q. Was there anything put in writing to</p> <p>11 provide guidance to anyone on this compliance team</p> <p>12 as to who should be contacting these various</p> <p>13 pharmacies?</p> <p>14 A. We communicated with each other when we</p> <p>15 did that. Whether we had anything in writing, I'm</p> <p>16 not sure that there was a requirement for that.</p> <p>17 Q. Are you telling this court and jury that</p> <p>18 on a daily basis, there was communication among</p> <p>19 your team as to every one of these orders that</p> <p>20 were exceeding thresholds?</p> <p>21 MR. KOBRIN: Object to form.</p> <p>22 THE WITNESS: I would say yes.</p> <p>23 BY MR. ROTTINGHAUS:</p> <p>24 Q. And under oath you're able to tell this</p> <p>25 court and jury that somebody was contacting each</p>

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1 of these pharmacies on a daily basis to the extent  
 2 the pharmacy was exceeding its order or -- excuse  
 3 me -- its threshold?  
 4 A. I did not say contacting the pharmacy.  
 5 Discussion amongst the compliance group.  
 6 Q. I misunderstood you. I'm sorry.  
 7 Do you have any memory as to what those  
 8 discussions would entail among the compliance  
 9 group?  
 10 A. Not specifically.  
 11 Q. And this compliance group you're telling  
 12 us about, who did that entail? You and who else?  
 13 A. Myself, Joe Millward, Greg Carlson on an  
 14 occasional basis. I'm not sure who the other  
 15 folks were on the email.  
 16 MR. KOBRIN: Are you talking about on  
 17 this particular report, Tom, or are you talking  
 18 about generally?  
 19 MR. ROTTINGHAUS: Generally.  
 20 BY MR. ROTTINGHAUS:  
 21 Q. If you don't know, it's okay. I'm just  
 22 wondering if you know.  
 23 A. I just know -- I don't know. There were  
 24 other individuals, but I can't remember exactly  
 25 which ones were on the report and getting this

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1 report.  
 2 Q. Is it fair to say that looking back,  
 3 you're not sure that everyone was in communication  
 4 as to who would be following up on every one of  
 5 these daily threshold reports every day?  
 6 MR. KOBRIN: Object to form.  
 7 Misrepresents his testimony.  
 8 BY MR. ROTTINGHAUS:  
 9 Q. I don't want to misrepresent your  
 10 testimony.  
 11 A. I'm sorry. Could you repeat that  
 12 again.  
 13 Q. Sure. I don't want to misrepresent your  
 14 testimony. I just want to see if you can give us  
 15 an answer. And if you can't, just tell us.  
 16 Is it fair to say that sitting here today,  
 17 you're not sure you can say with certainty that  
 18 someone was following up on a daily basis with  
 19 respect to every one of the orders that exceeded  
 20 threshold?  
 21 MR. KOBRIN: Object to form.  
 22 THE WITNESS: May not be contacting the  
 23 store, but reviewing this document.  
 24 BY MR. ROTTINGHAUS:  
 25 Q. Understood that it's getting reviewed.

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1 And by the time it's getting reviewed, all of  
 2 these orders that have exceeded their thresholds  
 3 have already shipped out to the pharmacy; correct?  
 4 A. That's correct.  
 5 Q. And isn't it fair to say, and you tell  
 6 me if I'm wrong, but is it fair to say that you  
 7 cannot tell us with any confidence that on a daily  
 8 basis, someone was following up with every  
 9 pharmacy who had an order that exceeded the daily  
 10 threshold to find out why it was exceeding the  
 11 daily threshold?  
 12 MR. KOBRIN: Object to form.  
 13 THE WITNESS: I can't say that every  
 14 store was called.  
 15 BY MR. ROTTINGHAUS:  
 16 Q. Isn't it fair to say that you really  
 17 don't know whether there was a good answer for why  
 18 some of these pharmacies were exceeding their  
 19 daily thresholds if the pharmacies weren't  
 20 contacted?  
 21 MR. KOBRIN: Object to form.  
 22 THE WITNESS: There are many different  
 23 things that went into why or when a store would be  
 24 contacted.  
 25

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1 BY MR. ROTTINGHAUS:  
 2 Q. Tell us what things went into when and  
 3 why a store would be contacted.  
 4 A. Some of the stores aren't here. Because  
 5 of the way this report was generated, stores would  
 6 show up -- they could show up in the middle of a  
 7 month and be on the report by the end of the  
 8 month, and maybe they had not had an increase in  
 9 purchases for that particular situation. That may  
 10 be one that I could think of.  
 11 Q. Some stores would show up on this daily  
 12 threshold report within the first ten days of the  
 13 month, wouldn't they?  
 14 MR. KOBRIN: Object to form.  
 15 THE WITNESS: They could.  
 16 BY MR. ROTTINGHAUS:  
 17 Q. And you're not able to tell us sitting  
 18 here today that you're confident that those  
 19 stores, whenever they showed up on this threshold  
 20 report, were always contacted to find out why they  
 21 might be exceeding the daily threshold?  
 22 MR. KOBRIN: Object to form. He's  
 23 talked about how they did follow-up also.  
 24 MR. ROTTINGHAUS: You can coach him all  
 25 you want, but I just want an answer.



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1 MR. KOBRIN: I'm not coaching him. You  
2 keep asking him the same question and trying to  
3 insert your own spin on his answers.  
4 BY MR. ROTTINGHAUS:  
5 Q. You can answer it however you want, sir.  
6 A. Repeat the question.  
7 Q. Isn't it fair to say that regardless of  
8 when during the month a store showed up on this  
9 daily threshold report, that you are not certain  
10 that someone contacted that store to do any  
11 investigation in an attempt to find out why the  
12 store was indeed exceeding the daily threshold?  
13 A. I can't --  
14 MR. KOBRIN: This specific report or all  
15 reports?  
16 MR. ROTTINGHAUS: The objections are  
17 getting a little excessive now. They can be to  
18 the form.  
19 BY MR. ROTTINGHAUS:  
20 Q. But you can answer the question. I'll  
21 ask it again.  
22 MR. KOBRIN: I'm going to get it on the  
23 record. I'm not clear, and this might be my  
24 fault. But that question wasn't clear to me if  
25 you meant -- you were pointing to the exhibit

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1 while you asked it -- if you're referring to this  
2 particular exhibit or if you're referring to the  
3 entire multiyear period that this report was run.  
4 BY MR. ROTTINGHAUS:  
5 Q. Isn't it fair to say, sir, that  
6 regardless of when a store showed up on a daily  
7 threshold report, from 2013 on, you cannot say  
8 with any certainty whether on a daily basis each  
9 store was contacted to determine why it was  
10 exceeding its daily threshold?  
11 A. I can't say that each store was  
12 contacted.  
13 Q. And sitting here today, you really don't  
14 know when they were contacted and when they  
15 weren't contacted; correct?  
16 A. Not at this point in time.  
17 Q. And you personally never prepared any  
18 document to provide guidance for any individuals  
19 as to when or why they might want to contact a  
20 store if it indeed exceeded the daily threshold;  
21 correct?  
22 MR. KOBRIN: Object to form.  
23 THE WITNESS: I did not provide any  
24 document.  
25

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1 BY MR. ROTTINGHAUS:  
2 Q. And to your knowledge, no one else did  
3 either; correct?  
4 A. I'm not quite sure of that.  
5 Q. From 2012 until 2014, do you have a  
6 specific recollection of any investigation that  
7 was ever performed by you to determine why a store  
8 was indeed exceeding its daily threshold?  
9 A. There may have been instances when  
10 during an investigation I would have called a  
11 store.  
12 Q. Are you positive you did so, or are you  
13 just thinking that could have happened?  
14 A. I'm positive within that timeframe that  
15 I would have done it at some point in time.  
16 Q. When you did that, did you take the time  
17 to document, whether it be in an email or in a  
18 file or in any notes, that you had indeed  
19 contacted the store and had been given some  
20 reassurance that the order that was exceeding the  
21 daily threshold didn't have any characteristics to  
22 lead you to conclude that it might be a suspicious  
23 order?  
24 A. I don't have anything. I don't believe  
25 I have anything in writing, no.

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1 Q. To your knowledge, did anybody at Giant  
2 Eagle or HBC keep any logs or notes or  
3 documentation of any follow-up when it was done  
4 with any store in an effort to determine why the  
5 store was exceeding its daily threshold?  
6 A. There were --  
7 MR. KOBRIN: Object to form.  
8 THE WITNESS: There were instances when  
9 that was done.  
10 BY MR. ROTTINGHAUS:  
11 Q. Was there any guidance to those  
12 individuals as to when they should prepare that  
13 documentation or when they shouldn't, or do you  
14 think it was just done -- it was created when  
15 someone did indeed contact the store?  
16 A. Yes.  
17 Q. I asked you a couple of questions. I  
18 didn't mean to confuse you. So just to make sure  
19 we're following each other, is it your belief  
20 sitting here today that when a store was contacted  
21 and there was some follow-up investigation with a  
22 store, it would get documented in some form or  
23 another?  
24 MR. KOBRIN: Object to form.  
25 THE WITNESS: I have seen documentation

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1 of that type, yes.  
2 BY MR. ROTTINGHAUS:  
3 Q. And as manager of compliance, that's  
4 what you would have expected of the people working  
5 under you.  
6 MR. KOBRIN: Object to form.  
7 THE WITNESS: At this point in time,  
8 there wasn't anybody working under me.  
9 BY MR. ROTTINGHAUS:  
10 Q. As manager of compliance, you would have  
11 expected that when someone did indeed contact a  
12 store to do some type of follow-up to find out why  
13 the store was exceeding its threshold, there would  
14 be an email or some form of documentation of that?  
15 MR. KOBRIN: Object to form.  
16 THE WITNESS: Was it my expectation?  
17 BY MR. ROTTINGHAUS:  
18 Q. Yes.  
19 A. Just rephrase that question or restate  
20 the question.  
21 Q. First let me back up. You do recall  
22 locations where you would see an email from  
23 someone between 2012 and 2017 where they  
24 documented in an email or some other way that they  
25 had followed up with a store about an order; is

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1 that right?  
2 A. That is correct.  
3 Q. And that's what you would have expected  
4 them to do; right?  
5 MR. KOBRIN: Object to form.  
6 THE WITNESS: I'm not sure I would have  
7 expected that.  
8 BY MR. ROTTINGHAUS:  
9 Q. You talked about multiple individuals on  
10 this team for compliance who are getting these  
11 daily threshold reports, and in some way, ideally,  
12 you would want your team members to be  
13 communicating with each other about who was doing  
14 what to follow up on those daily threshold  
15 reports; correct?  
16 A. We were all in the same area, and it was  
17 very easy to have verbal communication between  
18 myself and the other individuals that were working  
19 on that team. I didn't necessarily see a need for  
20 any written documentation when I was talking to  
21 folks or when we were talking amongst ourselves.  
22 Q. Although, on some occasions, you did see  
23 written documentation that someone had taken steps  
24 to contact a pharmacy to find out why they were  
25 exceeding a threshold?

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1 A. There may have been instances of that.  
2 Q. You do recall some of those?  
3 A. I do, yes.  
4 Q. And that would make sense that they  
5 would be communicating with the team in writing to  
6 let them know they had followed up; correct?  
7 A. There may be some other folks that they  
8 communicated with that I was part of the email.  
9 Q. And that's what you would expect; right?  
10 MR. KOBRIN: Object to form. He's  
11 already answered.  
12 THE WITNESS: I don't necessarily know  
13 if I expect that.  
14 BY MR. ROTTINGHAUS:  
15 Q. You're the manager of compliance.  
16 A. I am.  
17 Q. You had certain expectations as to how  
18 things would be handled to make sure that HBC  
19 warehouse was complying with the Controlled  
20 Substances Act; correct?  
21 MR. KOBRIN: Object to form.  
22 THE WITNESS: If I knew somebody was  
23 communicating, I wouldn't necessarily need to see  
24 it in writing.  
25

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1 BY MR. ROTTINGHAUS:  
2 Q. Understood. But you did have certain  
3 expectations as to how things would be handled to  
4 make sure that HBC warehouse was complying with  
5 its duties under the Controlled Substances Act;  
6 correct?  
7 MR. KOBRIN: Object to form. Asked and  
8 answered.  
9 THE WITNESS: I think I have answered  
10 that question.  
11 BY MR. ROTTINGHAUS:  
12 Q. Is the answer "yes" or "no"?  
13 MR. KOBRIN: Object to form.  
14 THE WITNESS: In certain situations, I  
15 would expect to see some documentation, not  
16 necessarily in all situations.  
17 (HBC-Chunderlik Exhibit 12 was marked.)  
18 BY MR. ROTTINGHAUS:  
19 Q. I'm going to show you what's been marked  
20 as Exhibit 12. Are you with me?  
21 A. I am, yes.  
22 Q. I think Exhibit 12 is a two-page  
23 document that's, once again, an email chain. Does  
24 it appear that way to you as well?  
25 A. Yes, it does.

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1 Q. If we go to the second page, this email  
 2 starts on November 14 at 8:50 a.m.; correct?  
 3 A. Yes.  
 4 Q. And it's from Kayla Voelker?  
 5 A. Yes.  
 6 Q. It's my understanding that oftentimes  
 7 Kayla would be the person who would email these  
 8 daily threshold reports.  
 9 MR. KOBRIN: Object to form.  
 10 BY MR. ROTTINGHAUS:  
 11 Q. I may be incorrect. Do you know?  
 12 A. I don't necessarily know if it was  
 13 Kayla.  
 14 Q. At least on this day, it appears that  
 15 Kayla was emailing the group to let them know that  
 16 there had been two pharmacies exceeding the  
 17 purchasing thresholds for certain controlled  
 18 substances so far that month; is that right?  
 19 A. Correct.  
 20 Q. This was dated November 14.  
 21 A. Yes.  
 22 Q. Then if we flip to the first page of  
 23 this document, I think there's a response by  
 24 Mr. Millward, and you're copied on the response.  
 25 His response actually is including a couple of

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1 individuals named Todd and Bobby.  
 2 A. Correct.  
 3 Q. And they were with Giant Eagle as well?  
 4 A. Yes.  
 5 Q. Or did they work at the HBC warehouse?  
 6 A. No. They did not work at the warehouse.  
 7 Q. And at least in this case, Mr. Millward  
 8 is documenting that he is asking them to check  
 9 with these two stores, and he's referencing an  
 10 attached spreadsheet which I'm not sure I have,  
 11 but he's asking them to see if the increase in  
 12 ordering is legitimate; correct?  
 13 A. He is, yes.  
 14 Q. And he's proposing some questions that  
 15 could be asked in conducting that inquiry; right?  
 16 A. Yes.  
 17 Q. One of the questions -- and he's got, I  
 18 think, six different questions here. One of them  
 19 is: "Has the store experienced an overall  
 20 increase in prescription volume compared to the  
 21 last year, and, if so, what's the percentage  
 22 increase?"  
 23 MR. KOBRIN: Object to form.  
 24 THE WITNESS: Yes.  
 25

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1 BY MR. ROTTINGHAUS:  
 2 Q. Then he suggests asking if the pharmacy  
 3 has had an acquisition in the last year; correct?  
 4 A. I see that, yes.  
 5 Q. Then asks: "Has a new physician  
 6 practice opened in the geographic location within  
 7 the last year?" Correct?  
 8 MR. KOBRIN: Object to form.  
 9 THE WITNESS: Yes.  
 10 BY MR. ROTTINGHAUS:  
 11 Q. Another question is whether the pharmacy  
 12 has a patient or multiple patients requiring the  
 13 same drugs?  
 14 MR. KOBRIN: Object to form.  
 15 THE WITNESS: Yes, I see that.  
 16 BY MR. ROTTINGHAUS:  
 17 Q. And then he has just a couple of  
 18 additional factors to consider; correct?  
 19 A. Yes.  
 20 Q. And these appear to be questions that in  
 21 your mind would be good questions to ask a  
 22 pharmacy when determining whether an order they  
 23 have that is exceeding thresholds has a good  
 24 reason; correct?  
 25 A. Yes.

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1 Q. Based on one occasion in November of  
 2 2013, we see all of these things being put to  
 3 writing?  
 4 A. Yes.  
 5 MR. KOBRIN: Object to form.  
 6 BY MR. ROTTINGHAUS:  
 7 Q. You're not sure whether this type of  
 8 input was given on a daily basis or this type of  
 9 inquiry was followed with any pharmacies on a  
 10 daily basis; is that right?  
 11 MR. KOBRIN: Object to form.  
 12 THE WITNESS: Not to this level.  
 13 BY MR. ROTTINGHAUS:  
 14 Q. Now, as I understand from the testimony  
 15 of other individuals when medications would ship  
 16 from HBC pharmacy, they would be going to one of  
 17 the HBC -- I'm sorry -- one of the Giant Eagle --  
 18 let me back up.  
 19 It's my understanding when medications would  
 20 ship from HBC warehouse, they would be going to  
 21 one of the 200 or so Giant Eagle pharmacies --  
 22 A. That's correct.  
 23 Q. -- operating in five different states;  
 24 correct?  
 25 A. Yes.

<p style="text-align: right;">Page 154</p> <p>1 Q. Once a pharmacy receives medications, 2 I'm assuming, and you correct me if I'm wrong, 3 they may dispense those medications the same day, 4 the next day or two weeks later? 5 MR. KOBRIN: Object to form. 6 THE WITNESS: That could be possible, 7 yes. 8 BY MR. ROTTINGHAUS: 9 Q. The idea in general theory is a pharmacy 10 doesn't want to have too much stuff stocked on its 11 shelves at any given point in time so that it can 12 kind of efficiently maintain its inventory; right? 13 A. I would agree, yes. 14 Q. So it would not surprise you if some of 15 the Giant Eagle pharmacies that were receiving 16 orders for controlled substances were indeed 17 distributing those -- I'm sorry -- were indeed 18 selling or dispensing those controlled substances 19 within a matter of either hours or days after they 20 received them? 21 MR. KOBRIN: Object to form. 22 THE WITNESS: I don't know if I could 23 say with any degree of certainty that that was 24 always the case. 25</p>	<p style="text-align: right;">Page 156</p> <p>1 the daily threshold report was issued and an 2 inquiry was made on November 14 about two 3 pharmacies, even as of November 25, someone had 4 not yet had an opportunity to -- I think I'm 5 mistaken. Forgive me. I think I'm being 6 misleading, and I didn't mean to. 7 Part of the inquiry that's being done, and I 8 skipped through an email, was on November 18, Todd 9 Roahrig sent an email asking someone named Tony to 10 give some information regarding the clinics and 11 their names and numbers that might be referring 12 patients to these pharmacies; is that right? 13 A. That looks to be, yes. 14 Q. And then on November 25, there's an 15 email providing information regarding those 16 clinics; is that right? 17 A. Yes. 18 Q. So at least 11 days after this initial 19 inquiry was raised, it appears that people are 20 still trying to investigate at least which clinics 21 might be prescribing for patients that are coming 22 to these pharmacies? 23 MR. KOBRIN: Object to form. 24 Misrepresents the evidence. 25 THE WITNESS: I don't know what would</p>
<p style="text-align: right;">Page 155</p> <p>1 BY MR. ROTTINGHAUS: 2 Q. My question is a little different. 3 But you would agree in general that once a 4 pharmacy received an order for controlled 5 substances, those controlled substances might 6 leave the shelves and get dispensed within hours 7 of receipt or they may sit there for a few days 8 before they're picked up or dispensed; right? 9 A. They may, yes. 10 Q. At least with respect to this inquiry 11 that's being done that started on November 14, if 12 you go to the top of the first page of Exhibit 12, 13 we see an email dated 10 days or 11 days later, 14 November 25; correct? 15 A. Yes. 16 Q. And this email is providing some 17 information regarding the pharmacies that 18 Mr. Millward was referencing should be asked some 19 questions; correct? 20 A. Yes. 21 Q. And then in that email, it says, "Tony 22 will continue to do his due diligence on those." 23 Is that right? 24 A. Yes. 25 Q. So does it appear to you that although</p>	<p style="text-align: right;">Page 157</p> <p>1 have taken place November 18 and November 25. I 2 don't know that that was the first time that there 3 had been any conversation or any other 4 correspondence. 5 (HBC-Chunderlik Exhibit 13 was marked.) 6 BY MR. ROTTINGHAUS: 7 Q. I show you what we've marked as 8 Exhibit 13, which is reference number 1001. This 9 is an email that starts out at the bottom on 10 January 10, 2014; correct? 11 A. Yes. 12 Q. This is, again, an email from 13 Ms. Voelker stating that one pharmacy had exceeded 14 the purchasing thresholds so far that month and 15 we're only ten days into the month; correct? 16 A. Yes. 17 Q. And then right above that, Mr. Millward 18 provides some input, and you're copied on the 19 email, where he states that store 8 is flagged as 20 having hit their threshold for total hydrocodone 21 products? 22 A. Yes. 23 Q. And then he asks if someone can please 24 see if this is an anomaly or if the orders should 25 be considered suspicious; correct?</p>



<p style="text-align: right;">Page 158</p> <p>1 A. Correct.</p> <p>2 Q. And then that same day, Mr. Roahrig</p> <p>3 responds that he had spoken to someone at the</p> <p>4 pharmacy.</p> <p>5 A. That's what that appears to be, yes.</p> <p>6 Q. And at least it appears that the inquiry</p> <p>7 he did was he determined that it was cold and did</p> <p>8 he say cough -- cough and cold season and this</p> <p>9 medication is one that's used to treat coughs and</p> <p>10 colds.</p> <p>11 A. Yes.</p> <p>12 MR. KOBRIN: Object to form.</p> <p>13 BY MR. ROTTINGHAUS:</p> <p>14 Q. From his email are you able to tell</p> <p>15 whether he did any additional inquiry?</p> <p>16 A. I cannot tell from this email if there</p> <p>17 was anything additional.</p> <p>18 (HBC-Chunderlik Exhibit 14 was marked.)</p> <p>19 BY MR. HUDSON:</p> <p>20 Q. Let's look at Exhibit 14. Are you with</p> <p>21 me?</p> <p>22 A. Yes.</p> <p>23 Q. This is an email dated August of 2015;</p> <p>24 correct?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 160</p> <p>1 assume GE.</p> <p>2 MR. KOBRIN: Object to form.</p> <p>3 BY MR. ROTTINGHAUS:</p> <p>4 Q. If you don't know, it's okay.</p> <p>5 A. I do not know.</p> <p>6 Q. We know that HBC warehouse stopped</p> <p>7 distributing hydrocodone combination products in</p> <p>8 November of 2014; correct?</p> <p>9 A. That's correct.</p> <p>10 MR. KOBRIN: You might want to have the</p> <p>11 deponent read the exhibit over.</p> <p>12 MR. ROTTINGHAUS: Absolutely. I don't</p> <p>13 have any further questions about this, I don't</p> <p>14 think. Actually, I do.</p> <p>15 BY MR. ROTTINGHAUS:</p> <p>16 Q. Take your time. If you look at the</p> <p>17 second page of this document, Exhibit 14, it's a</p> <p>18 suspicious order policy that we're going to be</p> <p>19 talking about in some more detail in a little bit.</p> <p>20 On the left-hand column of this policy, it says a</p> <p>21 created date. It says August 1 of '14; correct?</p> <p>22 A. It does, yes.</p> <p>23 Q. Did you create this policy?</p> <p>24 A. I created it in collaboration with</p> <p>25 others.</p>
<p style="text-align: right;">Page 159</p> <p>1 Q. August 28, 2015.</p> <p>2 A. That's correct.</p> <p>3 Q. From Mr. Millward where you are copied.</p> <p>4 A. Yes.</p> <p>5 Q. And here he's talking about a policy</p> <p>6 that was submitted for VAWD; correct?</p> <p>7 A. Correct.</p> <p>8 Q. And you told me before that you remember</p> <p>9 a policy being prepared in order to obtain VAWD</p> <p>10 certification.</p> <p>11 A. Correct.</p> <p>12 Q. I'm not sure about the timeframe we were</p> <p>13 talking about. But in reviewing this email, does</p> <p>14 it appear to you that Giant Eagle was trying to</p> <p>15 obtain VAWD certification for one of its states as</p> <p>16 of August 2015?</p> <p>17 A. Correct.</p> <p>18 Q. Here in this email at the bottom, the</p> <p>19 last two sentences of the first paragraph say,</p> <p>20 "Team members: At the distribution center</p> <p>21 identify unusual pick quantities and escalate the</p> <p>22 flagged items to the facility supervisor who</p> <p>23 escalates the issue to the GE pharmacy team."</p> <p>24 Do you know whether he is referring the GE</p> <p>25 distribution center or the HBC warehouse? I</p>	<p style="text-align: right;">Page 161</p> <p>1 Q. Are you the one that actually typed it</p> <p>2 out?</p> <p>3 A. I'm not sure if I typed this out, but</p> <p>4 I'm familiar with the policy.</p> <p>5 Q. Sitting here, are you pretty confident</p> <p>6 that you at least had input on this policy?</p> <p>7 A. Yes.</p> <p>8 Q. And this is the policy that Mr. Millward</p> <p>9 is referencing when he says "Here is the policy we</p> <p>10 submitted for VAWD"?</p> <p>11 A. Yes.</p> <p>12 (HBC-Chunderlik Exhibit 15 was marked.)</p> <p>13 BY MR. HUDSON:</p> <p>14 Q. We're going to come back to that policy</p> <p>15 in a little bit. I'll show you what's been marked</p> <p>16 as Exhibit 15. I'm almost through most of these.</p> <p>17 Are you with me?</p> <p>18 A. Yes.</p> <p>19 Q. At the top of this exhibit is an email</p> <p>20 from you to Mr. Millward. It's dated January of</p> <p>21 2016.</p> <p>22 A. Correct.</p> <p>23 Q. You say, "Hi, Joe. I noticed that Kris</p> <p>24 did not have you on this. These items will be</p> <p>25 blocked." Correct?</p>

<p style="text-align: right;">Page 162</p> <p>1 A. Correct.</p> <p>2 Q. At this point in time, how were these</p> <p>3 orders getting, as you say, blocked?</p> <p>4 A. There had to be some manual intervention</p> <p>5 to block those orders. The warehouse would be</p> <p>6 notified not to deliver those orders.</p> <p>7 Q. Because even as of January of 2016,</p> <p>8 there was not any type of automated system that</p> <p>9 would prevent these orders from getting filled and</p> <p>10 shipped from the warehouse level; is that correct?</p> <p>11 MR. KOBRIN: Object to form.</p> <p>12 BY MR. ROTTINGHAUS:</p> <p>13 Q. Or from the distribution center level.</p> <p>14 A. That's correct.</p> <p>15 MR. KOBRIN: We do have lunch here, so I</p> <p>16 don't know if you want to wrap up soon.</p> <p>17 MR. ROTTINGHAUS: I will. I'll wrap up</p> <p>18 in just a minute.</p> <p>19 BY MR. ROTTINGHAUS:</p> <p>20 Q. Then going back to the timeframe of 2012</p> <p>21 to 2014, it's also fair and correct to say that if</p> <p>22 an order was going to be blocked from the HBC</p> <p>23 warehouse, it had to be manually done so by</p> <p>24 someone contacting the warehouse and telling them</p> <p>25 not to ship or someone at the warehouse deciding</p>	<p style="text-align: right;">Page 164</p> <p>1 MR. HUDSON: The internal reference</p> <p>2 number, just for the record, is P-HBC-1132.</p> <p>3 BY MR. HUDSON:</p> <p>4 Q. And this is a multi-page document with</p> <p>5 an email and then an attachment of a</p> <p>6 questionnaire, do you see that, from a</p> <p>7 manufacturer?</p> <p>8 A. Yes.</p> <p>9 Q. And from time to time, did manufacturers</p> <p>10 from whom Giant Eagle was buying drugs ask HBC or</p> <p>11 Giant Eagle to fill out questionnaires?</p> <p>12 A. Yes.</p> <p>13 Q. And is this an example of one of those</p> <p>14 questionnaires?</p> <p>15 A. This is an example of one of those</p> <p>16 questionnaires, yes.</p> <p>17 Q. And if we look -- and I believe the</p> <p>18 exhibit has got a summary page on page 1, and then</p> <p>19 it looks like it's the same email on page 2 or at</p> <p>20 least the same questionnaire then on pages 3, 4</p> <p>21 and 5. Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. So I'm going to focus then on the</p> <p>24 questions from the manufacturer to you that are on</p> <p>25 pages 3, 4 and 5. Okay?</p>
<p style="text-align: right;">Page 163</p> <p>1 not to ship; is that correct?</p> <p>2 In other words, there was not an automated</p> <p>3 system to block any orders from the HBC warehouse?</p> <p>4 A. That's my recollection; that is correct.</p> <p>5 MR. ROTTINGHAUS: This is probably a</p> <p>6 fine time to stop.</p> <p>7 THE VIDEOGRAPHER: The time is</p> <p>8 12:32 p.m. We are going off the video record.</p> <p>9 (Recess from 12:32 p.m. to 1:32 p.m.)</p> <p>10 THE VIDEOGRAPHER: The time is 1:32 p.m.</p> <p>11 We are now back on the video record.</p> <p>12 EXAMINATION</p> <p>13 BY MR. HUDSON:</p> <p>14 Q. Good afternoon, Mr. Chunderlik. My name</p> <p>15 is Ty Hudson. Mr. Rottinghaus has got to run to</p> <p>16 the airport, so I'm going to take over. I have</p> <p>17 some questions for you.</p> <p>18 As you recall, before lunch we were talking</p> <p>19 some about the daily threshold reports. Do you</p> <p>20 remember the discussion about those reports?</p> <p>21 A. Correct.</p> <p>22 (HBC-Chunderlik Exhibit 16 was marked.)</p> <p>23 BY MR. HUDSON:</p> <p>24 Q. Now let me hand you what I've marked as</p> <p>25 Exhibit 16.</p>	<p style="text-align: right;">Page 165</p> <p>1 A. Yes.</p> <p>2 Q. And so on the first page of the</p> <p>3 questionnaire, this is directed to HBC asking</p> <p>4 about the corporate headquarters; correct?</p> <p>5 A. That's correct.</p> <p>6 Q. And then the next section, section two,</p> <p>7 relates to the registered distribution center. Do</p> <p>8 you see that?</p> <p>9 A. Yes.</p> <p>10 Q. And then the third section talks about</p> <p>11 prior history of the distribution center; right?</p> <p>12 A. Yes.</p> <p>13 Q. And then the fourth is business</p> <p>14 information.</p> <p>15 A. That is correct, yes.</p> <p>16 Q. And then the fifth is SOM and</p> <p>17 anti-diversion program; right?</p> <p>18 A. Yes.</p> <p>19 Q. I want to focus on the fifth section.</p> <p>20 That's questions 27 through 32. Do you see those?</p> <p>21 A. Yes.</p> <p>22 Q. And this is an example of a manufacturer</p> <p>23 asking HBC whether the company has a suspicious</p> <p>24 order monitoring program which complies with 21</p> <p>25 CFR 1301.74(b) for controlled substances; correct?</p>

<p style="text-align: right;">Page 166</p> <p>1 A. Yes.</p> <p>2 Q. And then the next question, 28, asks:</p> <p>3 "Does the company have a suspicious order</p> <p>4 monitoring program which complies with 21 USC</p> <p>5 830(b) for listed chemicals?" Correct?</p> <p>6 A. Correct.</p> <p>7 Q. And then if we skip down to question 30,</p> <p>8 it says, "Please provide a copy of your suspicious</p> <p>9 order monitoring program, SOP or summary of</p> <p>10 program."</p> <p>11 Do you see that?</p> <p>12 A. Correct, yes.</p> <p>13 Q. Have you heard the term SOM sometimes?</p> <p>14 A. I have, yes.</p> <p>15 Q. And that's suspicious order monitoring?</p> <p>16 A. Yes.</p> <p>17 Q. And then SOP or summary of program;</p> <p>18 right? Do you see that there in the second part</p> <p>19 of number 30?</p> <p>20 A. Yes.</p> <p>21 Q. So SOM is an acronym for suspicious</p> <p>22 order monitoring, and then SOP is an acronym for</p> <p>23 summary of program; right?</p> <p>24 A. That is correct.</p> <p>25 Q. And in this particular questionnaire,</p>	<p style="text-align: right;">Page 168</p> <p>1 Mr. Carlson -- at the very end of his email, do</p> <p>2 you see where he says at the end, "We need lock</p> <p>3 down an SOM SOP ASAP"?</p> <p>4 A. Yes.</p> <p>5 Q. And does that indicate to you as a</p> <p>6 recipient of this email that Mr. Millward was</p> <p>7 indicating to Mr. Voyten, Mr. Carlson, yourself</p> <p>8 and others copied that HBC needed to lock down a</p> <p>9 suspicious order monitoring program ASAP?</p> <p>10 MR. KOBRIN: Object to form.</p> <p>11 Misrepresents the document.</p> <p>12 THE WITNESS: I don't know what</p> <p>13 Mr. Millward meant by lock down terminology. I'm</p> <p>14 not familiar with that. I'm not sure what he</p> <p>15 meant by that.</p> <p>16 BY MR. HUDSON:</p> <p>17 Q. You've never heard the phrase lock down</p> <p>18 before?</p> <p>19 MR. KOBRIN: Object to form.</p> <p>20 THE WITNESS: Not used in a context such</p> <p>21 as this I have not.</p> <p>22 BY MR. HUDSON:</p> <p>23 Q. You agree that in this questionnaire, as</p> <p>24 we talked about, that the manufacturer was asking</p> <p>25 for a copy of HBC's SOM; right?</p>
<p style="text-align: right;">Page 167</p> <p>1 this particular manufacturer is asking HBC to</p> <p>2 provide a copy of their program to them; right?</p> <p>3 That's what question 30 is asking?</p> <p>4 A. That is correct, yes.</p> <p>5 Q. Now, if we go back to the first page of</p> <p>6 this exhibit, do you see there at the top there's</p> <p>7 an email from Mr. Millward to yourself,</p> <p>8 Mr. Carlson, Mr. Voyten and then copies to</p> <p>9 Mr. Mollica, Mr. Bianco?</p> <p>10 A. Yes.</p> <p>11 Q. And the subject is: FW: Wholesale</p> <p>12 Distributor Questionnaire. And then you can see</p> <p>13 there attachment show that the Wholesale</p> <p>14 Distributor Questionnaire that we were talking</p> <p>15 about is the attachment to this email; right?</p> <p>16 A. I'm sorry.</p> <p>17 Q. Do you see under attachment Wholesale</p> <p>18 Distributor Questionnaire?</p> <p>19 A. Yes, yes, yes.</p> <p>20 Q. And that's the questionnaire that we've</p> <p>21 been talking about that you can see is the</p> <p>22 Wholesale Distributor Questionnaire; right?</p> <p>23 A. Yes.</p> <p>24 Q. So now down below in the body of the</p> <p>25 email, Mr. Millward is asking Mr. Voyten and</p>	<p style="text-align: right;">Page 169</p> <p>1 MR. KOBRIN: Object to form.</p> <p>2 BY MR. HUDSON:</p> <p>3 Q. In question 30 that we talked about</p> <p>4 before.</p> <p>5 A. A copy of our suspicious order</p> <p>6 monitoring program or a summary of that program,</p> <p>7 yes.</p> <p>8 Q. Right. And then in response with the</p> <p>9 forward of this email, Mr. Millward is then</p> <p>10 forwarding that email, and in the body of his</p> <p>11 email, he's saying, "We need lock down an SOM SOP</p> <p>12 ASAP." Right?</p> <p>13 A. I see that, yes.</p> <p>14 Q. Can we agree ASAP means as soon as</p> <p>15 possible?</p> <p>16 A. Yes.</p> <p>17 Q. Do you think there's a connection</p> <p>18 between this manufacturer asking for a copy of</p> <p>19 HBC's suspicious order monitoring program and</p> <p>20 Mr. Millward's comments that "We need lock down an</p> <p>21 SOM SOP ASAP"?</p> <p>22 MR. KOBRIN: Object to form.</p> <p>23 Misrepresents the evidence.</p> <p>24 THE WITNESS: Could you state the</p> <p>25 question. I'm not sure I fully understand it.</p>

<p style="text-align: right;">Page 170</p> <p>1 BY MR. HUDSON:</p> <p>2 Q. Sure. Do you think there's a</p> <p>3 relationship between the manufacturer asking for a</p> <p>4 suspicious order monitoring program from HBC and</p> <p>5 Mr. Millward's comments to this group that "We</p> <p>6 need lock down an SOM SOP ASAP"?</p> <p>7 MR. KOBRIN: Ty, you keep saying that</p> <p>8 they want a copy of the program. That's not what</p> <p>9 it says. So I object to the misrepresentation of</p> <p>10 what question 30 actually says.</p> <p>11 THE WITNESS: I'm not sure I understand</p> <p>12 what you mean by relation. I'm not sure I</p> <p>13 understand what you mean by relation.</p> <p>14 BY MR. HUDSON:</p> <p>15 Q. I thought we established previously that</p> <p>16 in question 30, the drug manufacturer was asking</p> <p>17 HBC to provide them with a copy of your suspicious</p> <p>18 order monitoring program.</p> <p>19 A. Or a summary of the program.</p> <p>20 Q. Right, or a summary of the program;</p> <p>21 right?</p> <p>22 A. Yes.</p> <p>23 MR. KOBRIN: I object. That's not what</p> <p>24 it says.</p> <p>25 MR. HUDSON: That's fine.</p>	<p style="text-align: right;">Page 172</p> <p>1 THE WITNESS: I would agree that that's</p> <p>2 what they are asking for.</p> <p>3 BY MR. HUDSON:</p> <p>4 Q. So my question is: That request from</p> <p>5 the manufacturer, is there a relationship between</p> <p>6 that and Mr. Millward's comment to this group "We</p> <p>7 need lock down SOM SOP ASAP"?</p> <p>8 A. I can't interpret exactly what he means</p> <p>9 by that.</p> <p>10 Q. Do you know at the time that this email</p> <p>11 was written in January of 2014 whether or not HBC</p> <p>12 had any written policies for suspicious order</p> <p>13 monitoring?</p> <p>14 A. No, I cannot.</p> <p>15 (HBC-Chunderlik Exhibit 17 was marked.)</p> <p>16 BY MR. HUDSON:</p> <p>17 Q. Let me show you then what I've marked as</p> <p>18 Exhibit 17, which is the company's answers to some</p> <p>19 questions that we asked them about their written</p> <p>20 policies and procedures. Okay? You're welcome</p> <p>21 to look at the entire document. I'm just going to</p> <p>22 focus on question two right now.</p> <p>23 A. On the first page?</p> <p>24 Q. So question two is on the top right.</p> <p>25 It's P-HBC-0011.8. You see question two says,</p>
<p style="text-align: right;">Page 171</p> <p>1 MR. KOBRIN: It never said suspicious</p> <p>2 order monitoring program.</p> <p>3 MR. HUDSON: If you want to take a break</p> <p>4 to talk to your witness, you're happy to, and then</p> <p>5 you can ask him clarifying questions.</p> <p>6 MR. KOBRIN: I'm objecting that you've</p> <p>7 done it several times.</p> <p>8 MR. HUDSON: Then object to form.</p> <p>9 MR. KOBRIN: Despite my objections,</p> <p>10 you're misrepresenting what is on the page and</p> <p>11 you're confusing the witness. So I'm going to</p> <p>12 object.</p> <p>13 BY MR. HUDSON:</p> <p>14 Q. Mr. Chunderlik, do you agree that</p> <p>15 question 30 says, "Please provide a copy of your</p> <p>16 suspicious order monitoring program, SOP or</p> <p>17 summary of program"?</p> <p>18 A. I believe that is what it says there,</p> <p>19 yes.</p> <p>20 Q. And you agree with me that what that</p> <p>21 means is that the manufacturer is asking Giant</p> <p>22 Eagle or HBC to provide a copy of your suspicious</p> <p>23 order monitoring program, SOP or a summary of the</p> <p>24 program?</p> <p>25 MR. KOBRIN: Object to form.</p>	<p style="text-align: right;">Page 173</p> <p>1 "Please produce each of your suspicious order</p> <p>2 monitoring system policies and procedures since</p> <p>3 January 1, 2006 and identify the Bates-stamped</p> <p>4 range for each."</p> <p>5 I'm sorry. I need to give you time to get</p> <p>6 there.</p> <p>7 A. Could you repeat the page number?</p> <p>8 Q. Absolutely. On the top right it's 11.8.</p> <p>9 A. 11.8, okay.</p> <p>10 Q. Do you see the question there?</p> <p>11 A. Yes.</p> <p>12 Q. So they're asking for -- the question is</p> <p>13 asking for each suspicious order monitoring system</p> <p>14 policy or procedure since January 2006.</p> <p>15 Do you see that?</p> <p>16 A. Yes, I do.</p> <p>17 Q. Now, if you turn to the next page, which</p> <p>18 is 11.9, there's a number of objections, but when</p> <p>19 you get down, do you see the dashes with the Bates</p> <p>20 ranges which are some document reference numbers</p> <p>21 and then a list of policies and procedures? Do</p> <p>22 you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Do you see as you go down they become</p> <p>25 later in date? So the first one is 2015, then</p>



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1 2016, then 2017 and so forth.  
2 A. Yes.  
3 (HBC-Chunderlik Exhibit 18 was marked.)  
4 BY MR. HUDSON:  
5 Q. Let me hand you what I've marked as  
6 Exhibit 18, and I'll represent to you that  
7 Exhibit 18 is a compilation document that we put  
8 together that puts all in one place the documents  
9 that HBC has identified as written policies or  
10 procedures in answer number two. Okay?  
11 A. Okay.  
12 Q. So if we look at Exhibit 18, and you'll  
13 see, again, if you just scan through Exhibit 18 --  
14 do you see there that the documents -- the date of  
15 the policies get later in time, meaning the first  
16 policy earliest in time is first and then as you  
17 go back, they become later in time?  
18 A. Yes. Let me get through the...  
19 Q. Sure.  
20 MR. HIMMEL: I apologize for  
21 interrupting. But remotely, I don't know if I'm  
22 the only one, I've lost the live transcription.  
23 We still have video, but not the transcription.  
24 MR. HUDSON: Let's go off the record.  
25 THE VIDEOGRAPHER: The time is 1:46 p.m.

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1 We are going off the video record.  
2 (Recess from 1:46 p.m. to 1:50 p.m.)  
3 THE VIDEOGRAPHER: The time is 1:50 p.m.  
4 We're back on the video record.  
5 BY MR. HUDSON:  
6 Q. Mr. Chunderlik, we're back on  
7 Exhibits 17 and 18, 17 being the company's  
8 responses to some questions and then 18 being a  
9 summary of those documents.  
10 A. Yes.  
11 Q. Have you had a chance to review  
12 Exhibit 18?  
13 A. I have looked over the information, yes.  
14 Q. And do you see that the effective date  
15 of the policies gets later as you go back, later  
16 in time as you go back?  
17 A. Yes.  
18 Q. So can we agree that the first policy  
19 identified by Giant Eagle or HBC, the effective  
20 date is August 1, 2014?  
21 A. That is what the document says, yes.  
22 Q. And it's got a created date of 8/1/14 as  
23 well; correct?  
24 A. Yes.  
25 Q. And does that indicate to you that it

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1 was created the same day that it became effective?  
2 A. The policy was worked on prior to this  
3 in varying -- to varying degrees. So we had been  
4 working on this policy prior to August 1, 2014.  
5 Q. Is that something that you know  
6 independent of looking at the document or  
7 something you believe to be true by looking at the  
8 document?  
9 A. Independent of looking at the document.  
10 Q. Do you have a recollection of working on  
11 this particular policy prior to August 1, 2014?  
12 A. Yes, I do.  
13 Q. And who were you working with?  
14 A. It would have been myself and other  
15 members of the compliance team, Joe Millward, as  
16 well as the gentleman who is listed on this  
17 policy, Matt Rogos. I believe at the time we also  
18 had a project manager that was helping us with  
19 this as well.  
20 Q. Can we agree that this is the first  
21 written policy or procedure created by Giant Eagle  
22 or HBC relating to monitoring suspicious orders of  
23 controlled substances?  
24 MR. KOBRIN: Object to form. By this do  
25 you mean the 8/1/14 policy or the policy here?

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1 BY MR. HUDSON:  
2 Q. Do you understand the question?  
3 A. I'm not sure I do.  
4 Q. The policy that we're looking at, the  
5 first page of Exhibit 18 --  
6 A. Yes.  
7 Q. -- you testified that you believe there  
8 was a version that was created on or around  
9 August 1, 2014; right?  
10 A. Yes.  
11 Q. And you recall working on that?  
12 A. Yes.  
13 Q. So that August 1, 2014 policy, can we  
14 agree that that was the first written policy or  
15 procedure created by Giant Eagle or HBC relating  
16 to monitoring suspicious orders of controlled  
17 substances?  
18 A. Did you say written policy?  
19 Q. Yes.  
20 A. I am not quite sure.  
21 Q. You agree that that's the first policy  
22 that's been identified by the company, correct, if  
23 you look back at Exhibit 17 back on page 11.9?  
24 A. Yes. So this is referring to. I'm just  
25 looking at the numbers here making sure I have

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1 everything matched up.  
2 Q. Sure. And the best way to do that is  
3 there's a Bates number on it.  
4 A. Correct.  
5 Q. So you can see that ending in 638 and  
6 then that matches with the 638.  
7 A. Yes. On Exhibit 17 it has the long  
8 Bates-stamp number, and it says HBC policy  
9 effective 4/9/2015 to 2/26/2016, version 2,  
10 updating 8/1/14 version of policy.  
11 Is that what this is referring to?  
12 Q. Yes. You're jumping to what was going  
13 to be my next question. Actually, the document --  
14 the first page of Exhibit 18, do you see on the  
15 top right it says version number and it says 2,  
16 and then it says revision date 4/9/2015?  
17 A. Yes.  
18 Q. So what we're looking at, the first page  
19 of Exhibit 18, is actually the second version of  
20 that written policy; right?  
21 A. Yes.  
22 Q. But you've testified that you believe  
23 that there was a first version that was created on  
24 August 1, 2014; right?  
25 A. There may have been.

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1 Q. And that's something you've testified  
2 that you have a recollection of participating in  
3 the drafting of; right?  
4 A. Yes.  
5 Q. So do you know why there would not be a  
6 copy of version 1, the 8/1/14 version of this  
7 written policy or procedure?  
8 A. I do not.  
9 Q. Would it be the practice of Giant Eagle  
10 or HBC to maintain written policies once they're  
11 created?  
12 A. As much as possible.  
13 Q. Do you know of any reason why a policy  
14 would not be retained?  
15 A. I can't think of any, no.  
16 Q. Is it possible that there wasn't a  
17 version 1 created on 8/1/2014?  
18 A. I can't be sure of that, no.  
19 Q. I know you can't be sure. What I'm  
20 asking is: Are you sure one way or the other  
21 whether or not there was, in fact, an  
22 8/1/14 version of this policy?  
23 MR. KOBRIN: Object to form. He  
24 testified about that already.  
25 THE WITNESS: I'm not sure.

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1 BY MR. HUDSON:  
2 Q. So you just don't know one way or the  
3 other as you sit here today whether or not there  
4 is a version 1 of this policy that was created on  
5 or around August 1, 2014?  
6 A. As I sit here today, it's 2019. This is  
7 a 2014 document. I don't have a total recall of  
8 that.  
9 Q. Right. I understand. Previously though  
10 you had testified that to the best of your  
11 recollection, you thought you had actually done  
12 some work on the August 1, 2014 version of the  
13 policy, and that's why I want to make sure the  
14 record is clear.  
15 Is it possible that, in fact, it was version  
16 2 that you were working on in 2015 and not version  
17 1 on August 1, 2014?  
18 MR. KOBRIN: Object to form.  
19 THE WITNESS: That could be possible.  
20 BY MR. HUDSON:  
21 Q. And again, just so the record is clear,  
22 it would be your expectation and belief that based  
23 on Giant Eagle's and HBC's practices, that if  
24 there was, in fact, an August 1, 2014 version of  
25 this policy created, you would expect that the

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1 company would have retained that and have a copy  
2 of it in its files today?  
3 MR. KOBRIN: Object to form.  
4 THE WITNESS: I'm not necessarily sure  
5 of that for these documents.  
6 BY MR. HUDSON:  
7 Q. As you sit here today, is there any  
8 reason you can think of why the company would have  
9 created a policy on or around August 1, 2014, but  
10 then made a decision not to retain that?  
11 A. Not a conscious decision to do that.  
12 Q. Were the suspicious order policies  
13 something that Giant Eagle and HBC take seriously?  
14 A. Yes.  
15 Q. Was it something that in or around 2014  
16 and 2015 that Giant Eagle and HBC were focused on  
17 making sure that they had effective written  
18 policies and procedures in place?  
19 A. We had many policies that we were  
20 working on at the same time, not just this policy.  
21 My recollection is that, yes, we take policies  
22 very seriously. But I don't have a definite  
23 recollection of the series of events that may have  
24 taken place for that.  
25 Q. Sure. I'll represent to you that

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1 Exhibit 18, to the best of our knowledge, based on  
2 the information we've obtained from the company  
3 and the other witnesses we've deposed, this  
4 version 2 dated April 9, 2015 is the earliest  
5 document that I'm aware of that's been identified  
6 as a written policy or procedure at Giant Eagle or  
7 HBC relating to monitoring suspicious orders of  
8 controlled substances.

9 As you sit here today, are you aware of any  
10 written policies or procedures that were created  
11 prior to the one that we've been looking at that's  
12 the first page of Exhibit 18?

13 A. There were a lot of policies. I don't  
14 recollect this particular policy specifically.

15 Q. Right. I understand. My question  
16 though, just so the record is clear and I get your  
17 best testimony, do you have any recollection of  
18 any other suspicious order monitoring policy or  
19 procedure that was created by Giant Eagle or HBC  
20 prior to the one that we're looking at, page 1 of  
21 Exhibit 18 that's got a revision date of April 9,  
22 2015?

23 A. Not in written form.

24 Q. So then if we go back to Exhibit 16,  
25 which has got an internal reference number of

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1 1132 --

2 A. Yes.

3 Q. -- that was the email that's dated  
4 January of 2014?

5 A. Yes.

6 Q. Do you think that Mr. Millward in his  
7 email to Mr. Carlson, Mr. Voyten and yourself, do  
8 you think he was -- do you think he was  
9 referencing in that email written policies or  
10 procedures relating to suspicious order  
11 monitoring?

12 A. I'm not sure exactly what Joe was  
13 referring to, what Joe Millward was referring to  
14 by what he is saying in this document. I didn't  
15 write this, so I'm not necessarily sure I know for  
16 sure as I sit here today five years later what he  
17 meant by this.

18 Q. Right. I understand. Do you have any  
19 independent recollection of any of the events that  
20 happened in January of 2014 related to this  
21 request for an SOM or SOP?

22 MR. KOBRIN: Object to form.

23 THE WITNESS: I'm sorry. Could you  
24 restate that one more time.  
25

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1 BY MR. HUDSON:

2 Q. Sure. This email with the attachment  
3 from Qualitest I believe --

4 A. Yes.

5 Q. -- asking for -- question 30 that we've  
6 talked about, asking for a copy --

7 A. Yes.

8 Q. -- of your suspicious order monitoring  
9 program, SOP or summary of program, is there  
10 anything else you recall about this request?

11 A. Not about this request, no.

12 Q. Did you have any involvement with trying  
13 to figure out whether or not the company had the  
14 documents that were being requested or, I guess, a  
15 copy of your suspicious order monitoring program,  
16 SOP or summary of program?

17 A. Yes.

18 Q. You were involved with trying to figure  
19 out whether the company had a copy of it?

20 A. Yes.

21 Q. And did the company have a copy?

22 A. I'm not quite sure from this timeframe.  
23 I'm not really sure if we did have a copy.

24 Q. Do you know whether or not a copy was  
25 provided to Qualitest?

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1 A. A copy -- I don't know if was a  
2 formalized policy as on Exhibit 18. My  
3 recollection is that we would have provided a  
4 summary of our program versus a written policy as  
5 shown in Exhibit 18.

6 Q. And what is your recollection of -- at  
7 this time in January of 2014, what was the system  
8 or what was the suspicious order monitoring? What  
9 was happening at that time?

10 A. At that point in time, as we've seen, we  
11 had daily reports based upon stores that may have  
12 exceeded the threshold that we had set up, and if  
13 stores flagged on those reports, they were  
14 followed up on, and that was part of the  
15 explanation in this document.

16 Q. So at this point in time in January of  
17 2014, to the best of your recollection, the system  
18 that was in place was the daily threshold reports  
19 that you've talked about; correct?

20 A. Correct, yes.

21 Q. Now, at some point in 2015, did Giant  
22 Eagle take steps to open a new distribution  
23 facility where Giant Eagle was going to become a  
24 distributor of Schedule II controlled substances?  
25 A. Yes. We began processes. We began the

<p style="text-align: right;">Page 186</p> <p>1 stages of putting that in place.          2 (HBC-Chunderlik Exhibit 19 was marked.)          3 BY MR. HUDSON:          4 Q. And let me just hand you what I'm          5 marking as Exhibit 19.          6 My question is: Is this an email relating to          7 that process of opening the new Giant Eagle RX          8 distribution center?          9 MR. HUDSON: For the record, the          10 internal reference number is 1107.          11 THE WITNESS: Could you repeat the          12 question about this document again.          13 BY MR. HUDSON:          14 Q. Sure. My question was: Is this          15 document an example of an internal discussion that          16 was occurring involving the compliance team          17 relating to the opening of the new GERX          18 distribution facility?          19 A. Yes.          20 MR. KOBRIN: Can we take a moment and          21 read -- have you had a chance to read over the          22 whole thing, George?          23 THE WITNESS: I'm familiar with this          24 document.          25 MR. KOBRIN: Just take a minute and read</p>	<p style="text-align: right;">Page 188</p> <p>1 controlled substances in the short term?          2 MR. KOBRIN: Object to form.          3 Misrepresents the exhibit.          4 THE WITNESS: Be handling the CII,          5 Schedule II controlled substances.          6 BY MR. HUDSON:          7 Q. He says here, "Based on our call from          8 Friday, here's how I see the current process          9 working in the short term knowing that an overhaul          10 is imminent considering the GERX distribution          11 facility at FFM will be handling CII shortly."          12 Is this Exhibit 19 a plan for the new          13 distribution facility, or was that a short-term          14 plan for the HBC distribution facility until the          15 new facility opened?          16 A. This would be the short term until the          17 new facility opened is how I interpret this.          18 Q. Read number one, if you would.          19 A. "McKesson/Anda blocks the controlled          20 substance order to the store based on their          21 managed thresholds."          22 Q. Was that something that McKesson or Anda          23 ever did for controlled substance orders to Giant          24 Eagle retail pharmacies for Schedule III          25 controlled substances like hydrocodone or other</p>
<p style="text-align: right;">Page 187</p> <p>1 it over.          2 THE WITNESS: Yes. I believe that was          3 in anticipation of moving towards the new          4 distribution center.          5 BY MR. HUDSON:          6 Q. And this is an email from Mr. McClune to          7 Mr. Millward, Ms. Boyd, yourself, Mr. Zakin and          8 Mr. Dougherty?          9 A. Yes.          10 Q. And who was Mr. McClune?          11 A. Mr. McClune was at that point in time          12 the head of our -- in charge of pharmaceutical          13 buying. He didn't do the buying, but he was in          14 charge of it, and he had some responsibility in          15 that area.          16 Q. And he writes, "Team, based on our call          17 from Friday, here's how I see the current process          18 working in the short term knowing that an overhaul          19 is imminent considering the GERX distribution          20 facility at FFM will be handling CII shortly."          21 And then he goes on and puts four different          22 points underneath that; right?          23 A. Yes.          24 Q. And was this a summary of how HBC would          25 handle its process for monitoring and blocking</p>	<p style="text-align: right;">Page 189</p> <p>1 controlled substances?          2 A. I believe that would have included that          3 as well.          4 Q. At some point in time, did HBC or Giant          5 Eagle rely on McKesson or Anda to block orders of          6 Schedule IIIs that were going from HBC to the          7 Giant Eagle retail pharmacies?          8 A. We wouldn't have relied on McKesson to          9 do any of that. It was coming from our own          10 warehouse.          11 Q. And I'm just trying to figure out what          12 this document means. But to me, I thought they          13 were saying in the short term meaning once the new          14 Giant Eagle facility opens for control IIs, since          15 the old HBC facility didn't distribute Schedule II          16 controlled substances, that the new facility was          17 going to.          18 I read this to mean in the short term,          19 McKesson or Anda would be focusing on blocking the          20 Schedule IIs from the new facility. But I want to          21 make sure that I'm reading it correctly.          22 And if you don't know, you don't know. I'm          23 trying to get your best testimony.          24 A. I don't know.          25 (HBC-Chunderlik Exhibit 20 was marked.)</p>



<p style="text-align: right;">Page 190</p> <p>1 BY MR. HUDSON:</p> <p>2 Q. Let's go then to the next document,</p> <p>3 which I've marked as Exhibit 20. You can put that</p> <p>4 one to the side. I want to go back then to this</p> <p>5 topic of manufacturers asking for copies of HBC's</p> <p>6 suspicious order monitoring business practices.</p> <p>7 Okay?</p> <p>8 A. Okay.</p> <p>9 Q. And I've marked as Exhibit 20 a document</p> <p>10 that has an internal number of 2010, and it's an</p> <p>11 email from yourself to Erin Hart. Do you see that</p> <p>12 on page 1?</p> <p>13 A. Yes.</p> <p>14 Q. And then the subject is: USL</p> <p>15 Questionnaire.</p> <p>16 A. Yes.</p> <p>17 Q. And then there's an attachment</p> <p>18 Controlled Substance Handling</p> <p>19 Questionnaire_Upshur-Smith.doc. Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. And then attached to this email is a</p> <p>22 questionnaire from Upshur-Smith; correct?</p> <p>23 A. Yes.</p> <p>24 Q. And in your email, you said, "Hi, Erin.</p> <p>25 Here's the completed questionnaire. I marked no</p>	<p style="text-align: right;">Page 192</p> <p>1 several. I don't have an exact number though.</p> <p>2 There was more than one.</p> <p>3 Q. And did you decline to provide a</p> <p>4 documented SOM business practice to each of the</p> <p>5 manufacturers that requested it to your knowledge?</p> <p>6 A. Declining an SOM business practice, I</p> <p>7 know in several instances we re-sent in the</p> <p>8 summary, a summary of our business practice, yes.</p> <p>9 Q. In this particular one though, they're</p> <p>10 asking for a copy of the actual business practice</p> <p>11 or the program or the system, whatever you want to</p> <p>12 call it. They're asking for a copy of that</p> <p>13 itself, right, not just a summary?</p> <p>14 MR. KOBRIN: Object to form.</p> <p>15 THE WITNESS: I could read that as being</p> <p>16 the documented SOM business practice being a</p> <p>17 summary.</p> <p>18 BY MR. HUDSON:</p> <p>19 Q. Let's look at question five. Question</p> <p>20 five from Upshur-Smith is: "Would you be willing</p> <p>21 to send a copy of your documented SOM business</p> <p>22 practice to USL?"</p> <p>23 And you've answered: "No."</p> <p>24 So does that indicate that at least in April</p> <p>25 of 2016, Giant Eagle and HBC were unwilling to</p>
<p style="text-align: right;">Page 191</p> <p>1 for the question that asked if we would be willing</p> <p>2 to send a copy of our documented SOM business</p> <p>3 practice. They may balk at that. Thanks,</p> <p>4 George."</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Is this request by Upshur-Smith in</p> <p>8 April of 2016 similar to the request that we</p> <p>9 looked at before in Exhibit 16 with the</p> <p>10 questionnaire from that Qualitest?</p> <p>11 A. Not exactly the same, but similar.</p> <p>12 Q. Are both companies asking you for your</p> <p>13 suspicious order monitoring program that would</p> <p>14 comply with 21 CFR 1301.74(b)?</p> <p>15 A. I would say yes.</p> <p>16 Q. And at least for the request that we've</p> <p>17 got from Upshur-Smith in April of 2016, you've</p> <p>18 indicated that Giant Eagle or HBC is unwilling to</p> <p>19 provide a copy of that SOM business practice;</p> <p>20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. Do you know how many requests from</p> <p>23 manufacturers there were for a documented SOM</p> <p>24 business practice or an SOM system?</p> <p>25 A. I don't have an exact number, but</p>	<p style="text-align: right;">Page 193</p> <p>1 send a copy of its documented SOM business</p> <p>2 practice to Upshur-Smith?</p> <p>3 A. They gave us an option here, yes or no.</p> <p>4 I marked no. If they would have asked in a</p> <p>5 different manner, rather than giving the option, I</p> <p>6 would have felt more that we should be sending</p> <p>7 them at least a summary of the business practice.</p> <p>8 Q. And in your email to Ms. Hart -- and who</p> <p>9 was Erin Hart?</p> <p>10 A. She worked under Bob McClune. She does</p> <p>11 the majority of the buying for the warehouse.</p> <p>12 Q. In your email to her, you write, "They</p> <p>13 may be balk at that."</p> <p>14 Did manufacturers want to have a copy of</p> <p>15 distributors' suspicious order monitoring system</p> <p>16 or policy documents in order to ensure that they</p> <p>17 had proper systems in place that complied with the</p> <p>18 federal --</p> <p>19 A. Many of them -- many of them --</p> <p>20 MR. KOBRIN: Object to form.</p> <p>21 THE WITNESS: -- would have requested.</p> <p>22 BY MR. HUDSON:</p> <p>23 Q. Many of them would request that?</p> <p>24 A. Um-hum.</p> <p>25 Q. And by providing a copy of your</p>

<p style="text-align: right;">Page 194</p> <p>1 suspicious order monitoring business practice to</p> <p>2 Upshur-Smith, you would have been showing them</p> <p>3 that you had a robust system in place that</p> <p>4 complied with the federal framework; correct?</p> <p>5 MR. KOBRIN: Object to form.</p> <p>6 THE WITNESS: Yes.</p> <p>7 BY MR. HUDSON:</p> <p>8 Q. And here you've chosen not to do that;</p> <p>9 right?</p> <p>10 A. I was given the option. If they would</p> <p>11 have come back, we would have complied with their</p> <p>12 request.</p> <p>13 Q. Were you concerned that manufacturers</p> <p>14 would look at the suspicious order monitoring</p> <p>15 business practice document or documents that you</p> <p>16 had in place at that time and be concerned that</p> <p>17 they were not fulfilling the obligations under the</p> <p>18 federal framework?</p> <p>19 MR. KOBRIN: Object to form.</p> <p>20 THE WITNESS: I don't believe that to be</p> <p>21 the case, no.</p> <p>22 BY MR. HUDSON:</p> <p>23 Q. Why then would you not provide a copy of</p> <p>24 the suspicious order monitoring business practice</p> <p>25 to a manufacturer who was asking for it?</p>	<p style="text-align: right;">Page 196</p> <p>1 don't know exactly what the manufacturers that</p> <p>2 requested were -- how they used these forms or</p> <p>3 what they did with them once they received them</p> <p>4 back from us.</p> <p>5 Q. If you look at question four from</p> <p>6 Upshur-Smith. So question three was: "Is your</p> <p>7 suspicious order monitoring process automated?"</p> <p>8 And you answered: "Yes." Right?</p> <p>9 A. Yes.</p> <p>10 Q. So actually if we move up, let's just go</p> <p>11 through each one of these questions. For</p> <p>12 suspicious order monitoring, it said, one, "Do you</p> <p>13 currently have an active and documented SOM</p> <p>14 process?"</p> <p>15 And you said: "Yes." Right?</p> <p>16 A. Yes.</p> <p>17 Q. And then the second question is: "How</p> <p>18 long has your documented process existed?"</p> <p>19 And you said: "18 plus months." Right?</p> <p>20 A. Yes.</p> <p>21 Q. So you're representing to Upshur-Smith</p> <p>22 that it's been for more than 18 months. So 18</p> <p>23 months previous to April of 2016, you had a</p> <p>24 documented process that existed?</p> <p>25 MR. KOBRIN: Object to form. The</p>
<p style="text-align: right;">Page 195</p> <p>1 A. There's no reason to share an internal</p> <p>2 document.</p> <p>3 Q. Wouldn't that provide comfort and</p> <p>4 confidence to Upshur-Smith that Giant Eagle and</p> <p>5 HBC were fulfilling their obligations to monitor</p> <p>6 suspicious orders under the Controlled Substances</p> <p>7 Act?</p> <p>8 A. I don't necessarily know that for sure.</p> <p>9 I don't know what they did with these forms after</p> <p>10 they received these.</p> <p>11 Q. Are you aware of any other reason why</p> <p>12 manufacturers were asking for this other than to</p> <p>13 make sure that the distributor who the</p> <p>14 manufacturer was sending their controlled</p> <p>15 substances to was, in fact, complying with the</p> <p>16 Controlled Substances Act?</p> <p>17 A. Restate that question again.</p> <p>18 Q. In other words, can we agree that the</p> <p>19 reason why manufacturers were asking for the</p> <p>20 document on suspicious order monitoring business</p> <p>21 practices is to make sure that HBC as a</p> <p>22 distributor was complying with the requirements of</p> <p>23 the Controlled Substances Act?</p> <p>24 A. That could have been one of the ways in</p> <p>25 which they were doing that. I'm not exactly -- I</p>	<p style="text-align: right;">Page 197</p> <p>1 document speaks for itself.</p> <p>2 THE WITNESS: Yes.</p> <p>3 BY MR. HUDSON:</p> <p>4 Q. And if we went back 18 months from 2016,</p> <p>5 that would be like roughly October of 2014, in</p> <p>6 that ballpark?</p> <p>7 A. I haven't done the calculation, but it</p> <p>8 could have been in the timeframe of August</p> <p>9 roughly. These are -- when they give ranges like</p> <p>10 this, 18 plus months, it could take us back to</p> <p>11 before that period of time.</p> <p>12 Q. 18 or longer; right? So you're saying</p> <p>13 at least into October of 2014 and maybe further</p> <p>14 back you had a documented process; right?</p> <p>15 A. Yes.</p> <p>16 Q. Then number two was: "Does your current</p> <p>17 process" -- so this isn't asking about your past</p> <p>18 process; this is asking about your current</p> <p>19 process -- "Does your current process include</p> <p>20 monitoring your individual customers based on the</p> <p>21 following criteria: Order quantity, order</p> <p>22 frequency, order pattern?"</p> <p>23 And you answered "Yes" to all three; right?</p> <p>24 A. Yes.</p> <p>25 Q. So you were telling Upshur-Smith that in</p>

<p style="text-align: right;">Page 198</p> <p>1 April of 2016, you had a process for monitoring 2 orders of controlled substances that was based on 3 criteria involving order quantity, order frequency 4 and order pattern; correct? 5 A. Yes. 6 Q. Then the next question is: "Is your 7 suspicious order monitoring process automated?" 8 And you said: "Yes." Right? 9 A. Yes. 10 Q. Then number four said: "Please briefly 11 describe how technology is used in the SOM 12 process." 13 And you said: "The ordering monitor system 14 uses algorithms to identify controlled substance 15 orders that require investigation before releasing 16 the order for distribution." Right? 17 A. Yes. 18 Q. Describe for me the SOM process that 19 Giant Eagle or HBC had in place in April of 2016 20 that used algorithms. What was the program? 21 A. It would have been the program that was 22 used to produce the daily reports that we were 23 getting. 24 Q. So in your mind, the SQL that Kayla 25 Voelker created in October of 2013?</p>	<p style="text-align: right;">Page 200</p> <p>1 over the daily threshold; correct? 2 A. On that report, yes. 3 Q. Right. But how would that report which 4 is only focused on orders or shipments that are 5 going over a specific threshold, how would those 6 monitor frequency? 7 A. We had access to other information that 8 we would -- that we could check if we needed to. 9 We could go back and check orders that didn't even 10 show up on the report if we needed to. 11 Q. But you're telling Upshur-Smith in April 12 of 2016 that you have an automated process for 13 doing that, you agree with that, in answer to 14 questions two and three; right? 15 MR. KOBRIN: Object to form. 16 THE WITNESS: Part of the process, the 17 automated portion of it is to flag whenever an 18 order does go over the threshold. Part of it 19 does. In my estimation, as I was answering the 20 question, I feel that our ordering system was 21 automated to some extent to help us monitor the 22 orders that were coming from our pharmacies. 23 BY MR. HUDSON: 24 Q. How about order pattern, how would the 25 daily threshold reports that are flagging only</p>
<p style="text-align: right;">Page 199</p> <p>1 A. Yes. 2 Q. That was the system that was still in 3 place through April of 2016? 4 A. Yes. 5 Q. It is your belief that that system that 6 generated daily threshold reports was an 7 algorithm? 8 A. I believe it was. I believe it fits in 9 my definition of an algorithm. 10 Q. Describe for me how that system monitors 11 order frequency. 12 A. We could see on that report how often a 13 store ordered a product. 14 Q. The daily threshold reports are only 15 flagging stores that are going over the thresholds 16 based on the 12-month rolling data; correct? 17 A. Yes. 18 Q. So the program that Kayla Voelker set up 19 with the SQL, it was flagging orders of unusual 20 size based on historical ordering patterns and 21 then comparing those to the current orders; right? 22 A. Yes. 23 Q. And any order that was three times 24 bigger than the company-wide 12-month rolling 25 average would get flagged on that report as being</p>	<p style="text-align: right;">Page 201</p> <p>1 orders that are exceeding a threshold, how would 2 those help HBC or Giant Eagle monitor the pattern 3 of orders? 4 MR. KOBRIN: Object to form. 5 THE WITNESS: Again, on those reports, 6 you could see a pattern. You could see once they 7 did trigger on the report, if they came up -- if 8 the quantity of the order was increasing, it could 9 detect a pattern from that information. 10 BY MR. HUDSON: 11 Q. Those would be flagged because they're 12 an order of unusual size, right, unusual quantity? 13 A. Flagged on the report. But if need be, 14 we could go back and look at orders to see how 15 they were progressing because we had access to 16 other information that we could check, not just 17 this report. 18 Q. Can we agree that in order to check 19 order frequency or order pattern, HBC and Giant 20 Eagle did not have an automated process for doing 21 that. It would require you to go look at other 22 documents and try to determine the order patterns 23 or order frequencies of the pharmacies? 24 MR. KOBRIN: Object to form. Misstates 25 the evidence.</p>

<p style="text-align: right;">Page 202</p> <p>1 THE WITNESS: In that instance, we would  2 have access to that information. It wouldn't be  3 part of what shows up from an automated algorithm  4 triggering the order.  5 BY MR. HUDSON:  6 Q. Right. In other words, the only -- and  7 I think you testified to this. I just want to  8 make sure the record is clear. The only automated  9 process that existed at this time in April of 2016  10 were the daily threshold reports that Kayla  11 Voelker was creating where if a store's order  12 exceeded the threshold, it would trigger and pop  13 up on the daily report?  14 MR. KOBRIN: Object to form.  15 THE WITNESS: That's correct.  16 BY MR. HUDSON:  17 Q. Sir, is that why you didn't want to give  18 Upshur-Smith a copy of of your SOM business  19 practice, because they would be able to see that  20 most of it wasn't automated?  21 A. No, that was not my intent. No, I would  22 not say that.  23 Q. But you do agree that if Upshur-Smith  24 went and looked and compared the program to the  25 answers in two and three, they would be able to --</p>	<p style="text-align: right;">Page 204</p> <p>1 or if they would have come back to us to ask  2 additional questions.  3 BY MR. HUDSON:  4 Q. You do agree you made the conscious  5 decision not to provide them with a copy of your  6 suspicious order monitoring program?  7 A. I did.  8 Q. Did the suspicious order monitoring  9 program become more sophisticated later in 2016 at  10 the new Giant Eagle facility?  11 A. As we progressed from the early stages  12 of the program up until that time, yes. We're  13 always looking to improve the program where we  14 were able to as we learned more information, as  15 we -- always trying to get better at what we were  16 doing.  17 (HBC-Chunderlik Exhibit 21 was marked.)  18 BY MR. HUDSON:  19 Q. I'll hand you what I've marked as  20 Exhibit 21.  21 MR. HUDSON: Exhibit 21, the internal  22 number is 1033.  23 THE WITNESS: Yes.  24 BY MR. HUDSON:  25 Q. This is an email and an attachment, and</p>
<p style="text-align: right;">Page 203</p> <p>1 and they asked for supporting documentation of how  2 the process actually existed, there wouldn't be  3 any automated process for monitoring order  4 frequency or order pattern; correct?  5 MR. KOBRIN: Object to form.  6 THE WITNESS: I don't know what their  7 interpretation would be if they went back to see  8 our process.  9 BY MR. HUDSON:  10 Q. We've already testified previously that  11 the process was these daily monitoring reports  12 that were being created by Kayla Voelker and the  13 SQL that she created, right, where it was flagging  14 pharmacies that were making orders above certain  15 quantities; right?  16 A. Yes.  17 Q. So that particular report would not have  18 the full breadth of orders or shipments that were  19 occurring by any one pharmacy such that you could  20 look at the frequency or the patterns of past  21 orders and compare those to the current orders;  22 right?  23 MR. KOBRIN: Object to form.  24 THE WITNESS: I don't really know how  25 Upshur-Smith would have interpreted the document</p>	<p style="text-align: right;">Page 205</p> <p>1 the attachment, the title is Project Scope Drug  2 Control Program.  3 A. Yes.  4 Q. Then it looks like it's an email from  5 Philip Raub to yourself and others in November of  6 2016.  7 A. Yes.  8 Q. And is this a new version of the drug  9 control program or the scope of implementing a new  10 program for monitoring suspicious orders?  11 A. Yes.  12 Q. If you turn back to the page 1.4, the  13 internal reference number on the top right, it's  14 .4, and 2.0 says Project Scope Statement. Do you  15 see that?  16 A. Yes.  17 Q. Are you familiar with these? I'll give  18 you a second to read this, but are you familiar  19 with the statement that's contained here on this  20 page?  21 A. I do want to take a moment to read this.  22 Q. Sure.  23 MR. HUDSON: Let's go off the record.  24 We need to change the tape.  25 THE VIDEOGRAPHER: The time is 2:33 p.m.</p>



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1 We are going off the record.  
 2 (Recess from 2:33 p.m. to 3:17 p.m.)  
 3 THE VIDEOGRAPHER: The time is 3:17 p.m.  
 4 We're now back on the video record.  
 5 BY MR. HUDSON:  
 6 Q. Mr. Chunderlik, we're back looking at  
 7 Exhibit 21, which is an email from November of  
 8 2016 that's attaching a project scope drug control  
 9 program document. And we were back on the page  
 10 with the internal number of 1.4. And that's the  
 11 project scope statement.  
 12 I believe you testified that you have  
 13 reviewed this document.  
 14 A. Yes.  
 15 Q. Did you review it at the time that it  
 16 was sent by Mr. Raub?  
 17 A. I have a vague recollection of seeing  
 18 this document in that period of time.  
 19 Q. And this is in November of 2016;  
 20 correct?  
 21 A. Yes.  
 22 Q. And the new Giant Eagle RX distribution  
 23 facility, that opened around November -- excuse  
 24 me -- February of 2016?  
 25 A. Correct.

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1 Q. Is that right?  
 2 A. Yes.  
 3 Q. So at this point in time, the new  
 4 facility has been open about nine months; right?  
 5 A. Yes.  
 6 Q. And then in the first paragraph is  
 7 then -- do you see there is a description of the  
 8 prior drug control program? I'll give you a  
 9 chance to read it.  
 10 A. Okay.  
 11 Q. The first subparagraph is focusing on  
 12 the history of the drug control program for  
 13 Schedule II controlled substances; right?  
 14 A. Yes. Sorry. Say that again. I just  
 15 want to make sure.  
 16 Q. Sure. The first paragraph is focusing  
 17 on the history of the drug control program for  
 18 Schedule II narcotics?  
 19 A. Specific to Schedule IIs?  
 20 Q. Correct.  
 21 A. Yes.  
 22 Q. And there it indicates in the last  
 23 sentence, "With the completion of the GE CII  
 24 warehouse came the need for a more robust  
 25 monitoring program that covers store to patient as

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1 well as distribution to store transactions."  
 2 Do you see that?  
 3 MR. KOBRIN: Object to form.  
 4 THE WITNESS: I do see that.  
 5 BY MR. HUDSON:  
 6 Q. Do you know what that means, covers  
 7 store to patient as well as distribution center to  
 8 store transactions?  
 9 A. Yes, I think so.  
 10 Q. What does that mean to you?  
 11 A. That we would be able to track the  
 12 controlled substance as it was distributed from  
 13 our distribution center to the store and also that  
 14 part of this process would allow us to automate  
 15 the process of prescriptions going from the store  
 16 to the patient.  
 17 Q. And in the next paragraph, it then says,  
 18 "DEA regulation CFR 1301.74(b)..." And that's  
 19 that provision that we talked about before; right?  
 20 A. Yes.  
 21 Q. It says, "...specifically requires that  
 22 a registrant design and operate a system to  
 23 disclose to the registrant suspicious orders of  
 24 controlled substances." Right?  
 25 A. Yes.

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1 Q. Then it says, "Purposefully vague, the  
 2 DEA leaves GE, the registrant, to interpret the  
 3 elements and metrics of a monitoring system."  
 4 Right?  
 5 A. That's what's said here, yes.  
 6 Q. Then it says, "It is the belief of the  
 7 business that" -- do you know what he means by the  
 8 reference to the business?  
 9 A. I don't necessarily know what this  
 10 person is referring to when they say it's the  
 11 belief of the business.  
 12 Q. Mr. Raub, I guess, is the one who's  
 13 sending out this email and said scope document  
 14 attached; right?  
 15 A. Right.  
 16 Q. He says, "It is the belief of the  
 17 business that Giant Eagle's suspicious order  
 18 monitoring is 75 to 85 percent of where it needs  
 19 to be. The missing 15 to 25 percent of the  
 20 necessary functionality needed to bring the Giant  
 21 Eagle into full compliance with CFR 1301.74(b) can  
 22 be achieved through the following:"  
 23 Then there's three bullet points; right? Do  
 24 you see that?  
 25 A. Yes.

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1 Q. It says, "Dynamic threshold management."  
2 Do you know what that means?  
3 A. I don't necessarily know what the  
4 gentleman was referring to by dynamic threshold  
5 management.  
6 Q. Do you know Mr. Raub?  
7 A. I do know him.  
8 Q. And what was Mr. Raub's position?  
9 A. At the period of time of this  
10 document -- currently he's the -- he is in charge  
11 of our pharmacy inventory, but at the time of the  
12 document, he was a business analyst for Giant  
13 Eagle.  
14 Q. So was it his job in connection with  
15 creating this new drug control program document to  
16 evaluate the current state of the GE suspicious  
17 order monitoring system as it existed?  
18 A. He may have had some part in that. I  
19 don't know if it was his specific job.  
20 Q. Is that what an analyst does, is  
21 analyzes different aspects of the business and  
22 tries to find ways to improve them?  
23 A. One of the many, yes.  
24 Q. And do you believe that Mr. Raub was  
25 competent at his job?

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1 A. From the interaction that I've had with  
2 Mr. Raub, I believe he does have -- he is  
3 competent at his job.  
4 Q. Do you believe that he was informed  
5 about what was happening at Giant Eagle?  
6 MR. KOBRIN: Object to form. No  
7 foundation.  
8 THE WITNESS: I'm not necessarily sure  
9 that he was at this point in time.  
10 BY MR. HUDSON:  
11 Q. Do you think the person creating the  
12 drug program policy document didn't understand  
13 Giant Eagle's suspicious order monitoring?  
14 A. I think he had some understanding of it.  
15 Q. Do you disagree with his view that Giant  
16 Eagle's suspicious order monitoring is 75 to  
17 85 percent of where it needs to be?  
18 A. Yes.  
19 Q. Did you believe at this time in November  
20 of 2016 that Giant Eagle was at a hundred percent  
21 of where it needed to be?  
22 A. I felt that we could always improve.  
23 Would I say a hundred percent? Maybe not to that  
24 extent, but we were always looking to improve our  
25 system.

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1 Q. Did Giant Eagle have dynamic threshold  
2 management at this time in November of 2016?  
3 A. I'm not exactly sure what is meant by  
4 dynamic threshold management. We had a threshold  
5 management process that we've already discussed.  
6 Whether I would term it dynamic, I don't know what  
7 is meant by that dynamic part of threshold  
8 management.  
9 Q. This is indicating that there needs to  
10 be some change to the threshold, the way in which  
11 the threshold management is being operated, right,  
12 from his point of view at least?  
13 A. Maybe some improvement.  
14 Q. And then the second bullet point is  
15 "Re-engineering and formalizing the current  
16 investigative process." Right?  
17 A. That's what he says here, yes.  
18 Q. We've talked about the investigative  
19 process earlier in the day. You and  
20 Mr. Rottinghaus did; correct?  
21 A. Yes.  
22 Q. And I believe you testified that there  
23 was no formal -- up until this point in 2016,  
24 there was no formal process for documenting the  
25 investigations as they were concurring; correct?

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1 A. We had a process to do the  
2 investigations. Actually, not in all cases  
3 documenting. A lot of the investigation took  
4 place through communication with the PDL, the  
5 pharmacy district leader, the stores, the  
6 warehouse and so on.  
7 Q. But as you sit here today, you can't  
8 personally recall a specific investigation that  
9 you undertook; correct?  
10 MR. KOBRIN: Object to form.  
11 THE WITNESS: I participated in some  
12 investigations. I'm not sure if you mean if I led  
13 an investigation.  
14 BY MR. HUDSON:  
15 Q. As you sit here today, do you have a  
16 recollection of specific investigations of  
17 specific stores that you led?  
18 A. Not necessarily that I led, but I  
19 participated in.  
20 Q. That you participated in?  
21 A. Yes.  
22 Q. Which store was it of the 200?  
23 MR. KOBRIN: Object to form.  
24 THE WITNESS: I'm sure I had some  
25 involvement in the store number 8 that we've

<p style="text-align: right;">Page 214</p> <p>1 already discussed.</p> <p>2 BY MR. HUDSON:</p> <p>3 Q. Other than store number 8, any other</p> <p>4 investigations you recall?</p> <p>5 A. There were some. I can't remember</p> <p>6 specific stores.</p> <p>7 Q. Do you remember who you talked to at</p> <p>8 those stores?</p> <p>9 A. I would talk to the pharmacy manager.</p> <p>10 Q. Do you remember the names of anybody in</p> <p>11 particular that you talked to between 2009 and</p> <p>12 2014?</p> <p>13 MR. KOBRIN: Object to form.</p> <p>14 THE WITNESS: I would have talked to the</p> <p>15 pharmacy manager. Whether they've changed from</p> <p>16 that point in time, I'm not sure, but I don't</p> <p>17 recall the specific pharmacist that I talked to.</p> <p>18 When I make a call to the pharmacy, I always ask</p> <p>19 for the pharmacist in charge or the pharmacy</p> <p>20 manager.</p> <p>21 BY MR. HUDSON:</p> <p>22 Q. What particular information did you ask</p> <p>23 for when you made those calls?</p> <p>24 MR. KOBRIN: Object to form.</p> <p>25 THE WITNESS: I would ask about if there</p>	<p style="text-align: right;">Page 216</p> <p>1 A. I wouldn't necessarily say a heightened</p> <p>2 risk. I knew that there were probably going to be</p> <p>3 more prescriptions coming from those facilities.</p> <p>4 We look to fill prescriptions, legitimate</p> <p>5 prescriptions. I had no reason to believe that if</p> <p>6 a physician has written a prescription, that the</p> <p>7 pharmacy was going to do their due diligence to</p> <p>8 determine if that was a legitimate prescription or</p> <p>9 not.</p> <p>10 Q. Other than asking the pharmacist whether</p> <p>11 there were new physicians or pain clinics in the</p> <p>12 area, anything else that you can recall doing your</p> <p>13 due diligence to investigate flagged orders?</p> <p>14 MR. KOBRIN: Object to form. Asked and</p> <p>15 answered.</p> <p>16 THE WITNESS: Other than that, there may</p> <p>17 have been situations where I had asked about</p> <p>18 specifically what types of prescriptions that they</p> <p>19 were seeing from the pain clinic or from the</p> <p>20 physician's offices and if there was any reason</p> <p>21 why they had a reason -- if there weren't any pain</p> <p>22 clinics or new offices being opened, what the</p> <p>23 pharmacy would have thought was a reason for the</p> <p>24 increase in purchases in prescriptions.</p> <p>25</p>
<p style="text-align: right;">Page 215</p> <p>1 is any -- some of the questions that we had on</p> <p>2 our -- on one of the previous forms that we</p> <p>3 discussed that had some of those six questions on</p> <p>4 there.</p> <p>5 BY MR. HUDSON:</p> <p>6 Q. Did you ask the same questions every</p> <p>7 time, or did they change?</p> <p>8 A. They may have change a little bit.</p> <p>9 Q. As you sit here today, can you remember</p> <p>10 any specific questions that you asked any</p> <p>11 pharmacist at any particular store between 2009</p> <p>12 and 2014?</p> <p>13 A. Some of the things that I was most</p> <p>14 interested in when I asked were information on</p> <p>15 pain clinics, if there were any new physicians in</p> <p>16 the area.</p> <p>17 Q. Anything else that you asked?</p> <p>18 A. There may have been, but I can't recall</p> <p>19 specifically.</p> <p>20 Q. Did you ever uncover that there were</p> <p>21 ever pain clinics or new physicians in the area?</p> <p>22 A. Yes.</p> <p>23 Q. And would that cause you to have a</p> <p>24 suspicion that there would be a heightened risk</p> <p>25 for diversion?</p>	<p style="text-align: right;">Page 217</p> <p>1 BY MR. HUDSON:</p> <p>2 Q. You agree that between October of 2013</p> <p>3 and October of 2014, when these daily threshold</p> <p>4 reports were being generated at the same time that</p> <p>5 HBC was acting as a distributor of hydrocodone</p> <p>6 combination products, that there were in excess of</p> <p>7 a hundred flagged shipments that exceeded those</p> <p>8 thresholds; right?</p> <p>9 MR. KOBRIN: Object to form.</p> <p>10 THE WITNESS: I knew that there were</p> <p>11 stores on the report. I don't know exactly how</p> <p>12 many.</p> <p>13 BY MR. HUDSON:</p> <p>14 Q. Can you give any ballpark estimate as</p> <p>15 you sit here today of whether there were five or a</p> <p>16 hundred?</p> <p>17 A. There were more than five. There may</p> <p>18 have been a hundred. I'm not sure exactly. I</p> <p>19 don't have the exact numbers or the reports in</p> <p>20 front of me.</p> <p>21 Q. But there's no systematic -- I guess</p> <p>22 what I'm getting at -- I'm taking the long way to</p> <p>23 get there, but there was no systematic process up</p> <p>24 to this point in 2016 of documenting in any</p> <p>25 formalized way what investigation or phone calls</p>

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1 were being made by you or Mr. Millward or others  
2 who were looking into orders that had been flagged  
3 from the daily threshold reports; correct?  
4 MR. KOBRIN: Object to form. Asked and  
5 answered.  
6 THE WITNESS: Could you restate the  
7 question.  
8 MR. HUDSON: Could you just read it back  
9 for us, please.  
10 (The record was read back.)  
11 MR. KOBRIN: Same objection.  
12 THE WITNESS: We investigated. I don't  
13 necessarily know if I would say that there was not  
14 a systematic way. We did the investigation.  
15 Different circumstances could require us to ask  
16 different questions.  
17 So we took each in each instance individually  
18 to determine what we would do to do that  
19 investigation.  
20 BY MR. HUDSON:  
21 Q. And in each one of those instances  
22 though, there was no formalized documentation. So  
23 as we sit here today, we have no idea what you did  
24 in any one of those instances; correct?  
25 MR. KOBRIN: Object to form. Asked and

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1 answered and misrepresents the evidence.  
2 THE WITNESS: I would say we've had --  
3 we had some of our investigations documented, if  
4 that's what you're asking.  
5 BY MR. HUDSON:  
6 Q. Are you talking about the one or two  
7 emails that we looked at today?  
8 A. Yes.  
9 Q. Anything that you're aware of that's  
10 more formalized than the emails that had been  
11 attached and produced?  
12 A. I don't know that we were required to  
13 have anything formal in writing as to what our  
14 investigation into those instances were, no  
15 regulatory requirement that we needed to do that.  
16 Q. We'll let the jury or the judge or  
17 whoever decide what was or wasn't required.  
18 All I'm asking is: Was there a formalized  
19 process for documenting the investigations that  
20 occurred? I think what I'm hearing you say is no,  
21 there was not, but I want to make sure I get your  
22 testimony correct.  
23 MR. KOBRIN: Object to form.  
24 THE WITNESS: No.  
25

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1 BY MR. HUDSON:  
2 Q. In here what Mr. Raub is indicating is  
3 that it would be a good idea to reengineer and  
4 formalize the current investigative process;  
5 correct?  
6 A. I would say that, yes.  
7 Q. And then the third bullet point of what  
8 he's indicating is the implementation of a case  
9 management process.  
10 Do you know what a case management process  
11 means?  
12 A. Yes.  
13 Q. What is a case management process?  
14 A. Having a record of basically what was  
15 done to -- the steps taken to investigate a  
16 situation.  
17 Q. And that wasn't something, as we've  
18 talked about, that occurred up till this point in  
19 November of 2016; right?  
20 A. Correct.  
21 Q. Were there aspects of the suspicious  
22 order monitoring system at Giant Eagle or HBC that  
23 you were aware of that you believe that Mr. Raub  
24 wasn't aware of when he wrote this document  
25 indicating that he believed that the monitoring in

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1 November of 2016 was at 75 to 85 percent of where  
2 it needs to be?  
3 MR. KOBRIN: Object to form.  
4 THE WITNESS: There may have been, yes.  
5 BY MR. HUDSON:  
6 Q. What is it as you sit here today that  
7 you believe Mr. Raub was not aware of that you  
8 were aware of?  
9 A. Well, as I look at this, and I can't  
10 make an interpretation, but it seems that there  
11 were certain areas that he felt we didn't have  
12 that it could be argued or it could be said we did  
13 have those, some of that functionality.  
14 Q. What is that though?  
15 A. We did have controls in place to  
16 monitor, and we did have reports. We had various  
17 tools that we could use other than just a  
18 threshold report to do our analysis with that's  
19 not indicated.  
20 So there were other tools available to us to  
21 do an investigation into a situation where there  
22 could be an order that needed to be investigated  
23 further.  
24 Q. Is there anywhere where I could go to  
25 see when Giant Eagle or HBC ever used those other



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1 tools in an investigation to confirm that orders  
2 that had been flagged as suspicious were, in fact,  
3 legitimate?  
4 A. I'm not sure.  
5 Q. What causes you to be unsure?  
6 A. At that point in time, the areas where  
7 we weren't having written documentation of an  
8 incident, although a tool could have been used in  
9 that incident to help us make a determination.  
10 Q. Right. I guess what I'm getting at is  
11 you've said there were tools that were available  
12 that we could use.  
13 A. Yes.  
14 Q. And I'm asking is there anywhere I could  
15 go to see when you actually used those tools and  
16 put them to use to determine that an order that  
17 had been flagged as being potentially suspicious  
18 was, in fact, a legitimate order?  
19 MR. KOBRIN: Object to form.  
20 THE WITNESS: I'm not sure.  
21 BY MR. HUDSON:  
22 Q. As you sit here today, between 2009 and  
23 2014, how many orders did HBC flag as being  
24 potentially suspicious but then were determined to  
25 be legitimate?

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1 MR. KOBRIN: Object to form.  
2 Answer if you know. Don't speculate.  
3 THE WITNESS: I don't know.  
4 BY MR. HUDSON:  
5 Q. Do you have any sort of ballpark idea?  
6 A. I don't.  
7 Q. Before October of 2013 when the daily  
8 threshold reports were put in place, are you aware  
9 of any single order from HBC to the Giant Eagle  
10 retail pharmacies that was flagged as being  
11 suspicious that was then investigated and  
12 determined to be legitimate?  
13 A. In talking to various individuals -- did  
14 you say prior to 200- --  
15 Q. Prior to October to 2013. So prior to  
16 the daily threshold reports being created, are you  
17 personally from your firsthand knowledge of being  
18 a participant as part of the compliance team aware  
19 of any HBC order that was being shipped to Giant  
20 Eagle retail pharmacies that was flagged as being  
21 suspicious, but then was investigated and  
22 determined to be legitimate?  
23 A. In conversation with other folks on the  
24 team, there would have -- there were instances of  
25 that. I can't point to specific orders or

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1 timeframes exactly as to when that happened, but I  
2 do know that there was processes in place for  
3 folks at the warehouse, pickers, other  
4 individuals, warehouse manager, that if they saw  
5 anything that raised a question in their mind,  
6 they would bring it to somebody's attention to  
7 determine if that item needed to be sent to the  
8 pharmacy.  
9 Q. And when did those conversations occur  
10 where you learned that information?  
11 A. In talking to the other team members on  
12 our team.  
13 Q. Who specifically though were you  
14 speaking to?  
15 A. I would have spoken to Joe Millward,  
16 Greg Carlson at the time, even Walt Durr who was  
17 the warehouse manager.  
18 Q. When? Like what's the timeframe when  
19 you were speaking to them?  
20 MR. KOBRIN: If you remember.  
21 THE WITNESS: I do not remember. There  
22 would have been instances during that timeframe.  
23 I don't exactly remember exactly which dates that  
24 that would have occurred.  
25

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1 BY MR. HUDSON:  
2 Q. Is there anywhere that you're aware of  
3 that I could go that would be a log or a record  
4 that was kept at HBC that would let us know how  
5 many orders had been flagged by the warehouse?  
6 A. I don't -- I don't know if there would  
7 be any of those types of records.  
8 Q. You personally prior to October of 2013  
9 were not involved in any investigations where an  
10 order was flagged and that you were personally  
11 involved in determining that order was legitimate;  
12 correct?  
13 A. I was part of a team that helped analyze  
14 that.  
15 Q. How many of those shipments or orders  
16 would you say you were involved in that were  
17 flagged prior to October of 2013 and investigated  
18 and determined to be legitimate?  
19 A. Prior to 2013?  
20 Q. Prior to October of 2013.  
21 A. October of 2013, at least one that I  
22 know of.  
23 Q. Anything more specific you can say about  
24 that particular order?  
25 A. My recollection is that it was flagged,

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1 and we did stop distribution of that order, of  
 2 subsequent orders, of subsequent orders, not the  
 3 particular order.  
 4 Q. A suspicious order was flagged, and then  
 5 you were not able to determine it was legitimate  
 6 or you were able to determine it was legitimate?  
 7 A. We stopped shipment to the store because  
 8 of what we had determined was potential suspicious  
 9 activity.  
 10 Q. Was that buprenorphine?  
 11 A. Yes.  
 12 Q. Was that in December of 2013?  
 13 A. That would be my recollection of that,  
 14 yes.  
 15 Q. So what I'm trying to determine is prior  
 16 to October of 2013 -- you'd agree with me that in  
 17 October of 2013 when you started to create the  
 18 daily threshold reports, there was an increased  
 19 focus on looking at orders that were exceeding  
 20 those threshold quantities; correct?  
 21 A. I think the threshold report was another  
 22 tool that we could use. I don't want to say that  
 23 we didn't have focus. It was another tool that we  
 24 had to help us.  
 25 Q. Prior to October of 2013, there was no

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1 formalized process for identifying orders of  
 2 unusual size; correct?  
 3 MR. KOBRIN: Object to form.  
 4 THE WITNESS: No formal process.  
 5 BY MR. HUDSON:  
 6 Q. No criteria that existed at the  
 7 warehouse where anyone there would be applying  
 8 some sort of formula or criteria in a systematic  
 9 way; right?  
 10 MR. KOBRIN: Object to form.  
 11 THE WITNESS: I wouldn't say a formula,  
 12 but there were -- if they thought or if they  
 13 discovered an order that was -- an item was being  
 14 ordered, the quantity that was being ordered was  
 15 more than usual or what they knew the store had  
 16 historically been ordering, they may raise a flag  
 17 on that.  
 18 BY MR. HUDSON:  
 19 Q. So if a particular picker or the  
 20 warehouse manager from just their inherent  
 21 knowledge of working at that warehouse, if a  
 22 particular order stuck out to them as being of  
 23 unusual size, then there may have been an  
 24 identification of that order and then a subsequent  
 25 investigation?

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1 A. That is possible, yes.  
 2 Q. But as you sit here today though, you're  
 3 not aware of how many times that happened?  
 4 A. I am not aware of an exact number or how  
 5 many times that happened, no.  
 6 (HBC-Chunderlik Exhibit 22 was marked.)  
 7 BY MR. HUDSON:  
 8 Q. Let's switch to a new document. I'm  
 9 going to hand you what I've marked as Exhibit 22.  
 10 And kind of moving forward in time here, so we're  
 11 up to January of 2017, and this is an email from  
 12 you to Mark Doerr.  
 13 A. Yes.  
 14 Q. Who is Mark Doerr? What was his role, I  
 15 guess, at this time?  
 16 A. At the time he was the senior  
 17 vice-president of pharmacy at Giant Eagle.  
 18 Q. Did you report to him or would you have  
 19 reported to somebody else who reported to him?  
 20 A. At that time in January of 2017, I would  
 21 have reported to -- we had a vacancy. So my  
 22 reporting responsibilities would have been to Mark  
 23 Doerr.  
 24 Q. So you here in January of 2017 were  
 25 writing to your boss at the time; right?

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1 A. Yes.  
 2 Q. And you wrote -- then attached to your  
 3 email is a new policy. It's entitled Order  
 4 Monitoring System Policy; right?  
 5 A. Yes.  
 6 Q. And it has an effective date of  
 7 2/2/2017 and a created date of 2/2/17; right?  
 8 A. Yes.  
 9 Q. And then this is version 1 of this  
 10 particular policy; right?  
 11 A. Yes.  
 12 Q. And this particular policy, why was this  
 13 being created?  
 14 A. We wanted to take what we already had  
 15 and were always looking to improve, so we were --  
 16 we wanted to improve upon what we -- some of those  
 17 processes that we already had in place to identify  
 18 suspicious orders.  
 19 Q. Was this part of the overhaul that was  
 20 referenced in those previous emails of the  
 21 suspicious order monitoring system?  
 22 A. Yes.  
 23 Q. So this was a policy that was going to  
 24 be put in place that was going to be connected to  
 25 a new system for monitoring suspicious orders?

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1 A. Yes.  
2 Q. So then let's walk through this document  
3 and see what the new system was going to look  
4 like. It says, "The purpose or objective is to  
5 monitor, identify and investigate controlled  
6 substance order exceeding system limits; then make  
7 the determination to allow the order to continue  
8 or to hold the order and report it as being  
9 suspicious as required by law." Right?  
10 A. Yes.  
11 Q. So this new system that was going to be  
12 implemented at the Giant Eagle distribution  
13 facility was now going to give the company the  
14 ability to hold the order while the investigation  
15 was occurring to figure out whether it was  
16 legitimate or not; right?  
17 A. I would say hold subsequent orders once  
18 something had been identified.  
19 Q. But you agree that's not the language  
20 that's used in this sentence; right?  
21 MR. KOBRIN: Object to form.  
22 THE WITNESS: It doesn't specifically  
23 say that.  
24 BY MR. HUDSON:  
25 Q. It says, "...then make the determination

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1 to allow the order to continue or to hold the  
2 order and report it as being suspicious as  
3 required by law." Right?  
4 A. Yes.  
5 Q. At least what's written here, can we  
6 agree that this new system, what was contemplated  
7 is the ability to hold the order that had been  
8 flagged?  
9 A. Say that again.  
10 Q. The purpose and objective of this  
11 paragraph, is it indicating that the new Giant  
12 Eagle system was going to give the company the  
13 ability to hold, in other words, stop the shipment  
14 of an order until it could be investigated?  
15 A. To hold subsequent orders.  
16 Q. Does Giant Eagle today have a system in  
17 place where the suspicious order that's being  
18 flagged can be stopped?  
19 A. Yes, it does.  
20 MR. KOBRIN: Object to form. You mean --  
21 today or do you mean --  
22 MR. HUDSON: Today, today, like now.  
23 THE WITNESS: Yes.  
24 BY MR. HUDSON:  
25 Q. When did that particular system get

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1 implemented?  
2 MR. KOBRIN: Object to form. Relevance.  
3 This is beyond the discovery period.  
4 You can answer.  
5 THE WITNESS: Ask the question.  
6 BY MR. HUDSON:  
7 Q. When did Giant Eagle implement a system  
8 that allowed it to stop an order that had been  
9 flagged pending the investigation and  
10 determination of whether it was legitimate?  
11 A. In November of 2018.  
12 Q. November of 2018.  
13 MR. KOBRIN: I just want to clarify, Ty.  
14 MR. HUDSON: You can when you ask him  
15 questions.  
16 MR. KOBRIN: Well, I want to clarify  
17 with you.  
18 MR. HUDSON: You don't get the right to.  
19 That's now how depositions work. You're not an  
20 active participant.  
21 MR. KOBRIN: I'm going to object to  
22 that. It's a misleading question. And I won't  
23 explain to you why it's a misleading question. We  
24 can deal with it later.  
25 MR. HUDSON: That is completely fair.

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1 MR. KOBRIN: And I move to strike the  
2 testimony as being misled by the prior question.  
3 We can talk about it at a break if you want. But  
4 we're going to limit you on redirect to the time  
5 that we've taken on redirect. So if you want to  
6 clean something up later, you're not going to have  
7 that opportunity.  
8 BY MR. HUDSON:  
9 Q. Mr. Chunderlik, here in the next  
10 paragraph is a discussion of the scope of the new  
11 policy; right?  
12 A. Yes.  
13 Q. It says, "This procedure applies to the  
14 Giant Eagle order monitoring system team which  
15 consists of members of pharmacy administration,  
16 pharmacy operations, pharmacy compliance, pharmacy  
17 merchandising, pharmacy technology, Giant Eagle RX  
18 distribution center teams and loss prevention."  
19 Right?  
20 A. Yes.  
21 Q. Was this policy more comprehensive than  
22 previous policies in terms of who was involved in  
23 the process?  
24 A. It's written to appear to be, but in all  
25 areas whenever we had our previous programs in

<p style="text-align: right;">Page 234</p> <p>1 place, any one of these individuals could be  2 involved as well. It wasn't meant to add any  3 extra individuals.  4 Q. So the contemplation was that this same  5 group of individuals would have been previously  6 involved in the process?  7 A. Yes.  8 Q. In here it says the policy is the order  9 monitoring system team monitors pharmacy orders to  10 prevent possible diversion of controlled  11 substances; right?  12 A. Yes.  13 Q. And then the procedure, we've got 14  14 bullet points; correct?  15 MR. KOBRIN: Object to form.  16 THE WITNESS: Yes.  17 BY MR. HUDSON:  18 Q. And the first bullet point is just  19 indicating that controlled substances are supplied  20 to the pharmacies from McKesson, Anda and the new  21 Giant Eagle RX distribution center; right?  22 A. Yes.  23 Q. And the second bullet point is Schedule  24 II controlled substances are generated using the  25 controlled substance ordering system. In</p>	<p style="text-align: right;">Page 236</p> <p>1 A. Yes.  2 Q. If you could, just compare for me how  3 comprehensive these algorithms are for monitoring  4 orders compared to the previous daily threshold  5 reports that we talked about.  6 A. I think we modified the algorithm to --  7 we modified the algorithm that we were using to  8 identify any type of suspicious order or any type  9 of order.  10 Q. So now the monitoring is going to be  11 specific to the actual pharmacy location; right?  12 A. Yes.  13 Q. That was not something that -- the daily  14 threshold reports that were implemented in October  15 of 2013, not something they were able to do;  16 right?  17 A. That's correct.  18 Q. And then here it also indicates that  19 this monitoring is going to involve not just  20 monthly thresholds, but also ordering  21 characteristics; correct?  22 A. That's correct.  23 Q. That's something that the prior daily  24 threshold reports were not able to do; right?  25 A. Which bullet are you referring to?</p>
<p style="text-align: right;">Page 235</p> <p>1 parentheses it says CSOS. Right?  2 A. Yes.  3 Q. When was the CSOS system implemented, if  4 you know?  5 A. At the retail location, my recollection  6 is around April of 2015.  7 Q. Then the next bullet point is the OMS.  8 Is that a reference to the order monitoring  9 system?  10 A. Yes.  11 Q. Is that the new system that's going to  12 be implemented --  13 A. Yes.  14 Q. -- in conjunction with this policy?  15 A. Yes.  16 Q. The OMS uses algorithms to identify  17 controlled substance orders that require  18 investigation and documentation before releasing  19 the order for distribution.  20 Then there's a sub-bullet there. The OMS  21 algorithm generates limits based on monthly  22 thresholds and ordering characteristics specific  23 to the following. Then it lists pharmacy  24 location, chemical, generic product indicator,  25 National Drug Code and ordering pattern; correct?</p>	<p style="text-align: right;">Page 237</p> <p>1 Q. The clear bullet, the first.  2 A. I wouldn't necessarily say that our  3 previous system was not able to do some of these  4 things as well.  5 Q. We've looked at the reports before, but  6 the daily threshold reports that began being  7 generated in October of 2013, those were monthly  8 or those were thresholds of orders based upon  9 monthly rolling data; right?  10 A. Right, but they were chemical, generic  11 product indicator, National Drug Code as well. I  12 kind of want to make that distinction there. We  13 have bullets that look like we've added these  14 types of things, but they were part of the  15 original one as well.  16 Q. The original one in October of 2013  17 created thresholds based on GPI; right? The  18 generic product indicator was --  19 A. At the GPI 10 level.  20 Q. Right. And then it was specific that  21 thresholds were company-wide, but not store or  22 location specific; right?  23 A. Correct.  24 Q. And then the daily threshold reports,  25 those didn't include -- there was no data that was</p>



<p style="text-align: right;">Page 238</p> <p>1 being mined to create algorithms to flag or 2 monitor ordering characteristics, right, or 3 ordering patterns? 4 MR. KOBRIN: Object to form. 5 THE WITNESS: We have those reports 6 where we could -- I mean, they do show pattern. 7 They have the potential to show patterns. 8 BY MR. HUDSON: 9 Q. They show a pattern as it relates to 10 orders, but only the subset of orders that would 11 be exceeding a threshold; right? 12 In other words, the only thing being flagged 13 in the daily threshold reports that were in 14 existence from October of 2013 were orders that 15 were exceeding the threshold; right? 16 MR. KOBRIN: Object to form. 17 THE WITNESS: Those are the orders. 18 When a store -- the first time a store went over 19 the threshold, they would flag on the report, and 20 they could have the potential to stay on that 21 report till the end of the month, yes. 22 BY MR. HUDSON: 23 Q. Right. But if there wasn't an order 24 going from HBC to a pharmacy that tripped over the 25 threshold, that order would not be on those daily</p>	<p style="text-align: right;">Page 240</p> <p>1 controlled substances, prescriber histories and 2 patterns, interviews with pharmacy -- with store 3 pharmacists and technicians and interviews with 4 pharmacy district leaders; right? 5 A. Yes. 6 Q. Were store dispensing patterns something 7 that there was a systematic process of 8 investigating prior to the implementation of this 9 new system? 10 MR. KOBRIN: Object to form. Vague. 11 THE WITNESS: The way the question is 12 posed, I'm not sure I understand. 13 BY MR. HUDSON: 14 Q. You've testified today about the 15 investigations that occurred prior to the 16 implementation of this new system; right? 17 A. Yes. 18 Q. And then if we look down to the bullet 19 point, the fourth bullet point down, it starts 20 out, "The documentation of the investigation and 21 determination must be retained in readily 22 retrievable form according to the Giant Eagle 23 document retention policy and not less than two 24 years." Right? 25 A. Yes.</p>
<p style="text-align: right;">Page 239</p> <p>1 threshold reports; correct? 2 A. It may not show up on there, yes. It 3 would not show up on there. 4 Q. So in terms of monitoring or evaluating 5 ordering patterns as a whole, that wasn't 6 something that the daily threshold reports in 7 October of 2013 gave the company the ability to 8 do, was it? 9 MR. KOBRIN: Object to form. Vague. 10 THE WITNESS: I think it had the 11 ability. If somebody looked at the report, they 12 would be able to see patterns if they had the 13 report. 14 BY MR. HUDSON: 15 Q. Those patterns would be limited only to 16 the orders that exceeded the threshold because 17 those would be the orders that would be on the 18 reports; is that fair? 19 A. That's correct, yes. 20 Q. If we turn to the next page, there's a 21 bullet point at the top about investigations. 22 A. Yes. 23 Q. Then it's got they can include, but not 24 limited to, store purchasing patterns, store 25 dispensing patterns, individual prescriptions for</p>	<p style="text-align: right;">Page 241</p> <p>1 Q. So at this point in January 2017, Giant 2 Eagle as a company is going to begin keeping files 3 of the investigations that were occurring; 4 correct? 5 A. Correct. 6 Q. And that wasn't something that occurred 7 previously; right? 8 A. In some cases it did occur, but not in 9 necessarily all cases. 10 Q. In fact, Giant Eagle then had an actual 11 database or repository or whatever you want to 12 call it where those investigative files were kept 13 moving forward -- 14 A. Moving forward, yes. 15 Q. -- after January 2017? 16 A. Yes, that's correct. 17 Q. There wasn't a repository or database or 18 some centralized location where investigative 19 files were kept in the past? 20 A. Correct, yes. 21 Q. If we go back then to your cover email 22 to this policy document, in the third paragraph 23 you said, "Keeping in mind that this is a draft 24 copy, my intention is a high level description of 25 the SOM process to have available if we are asked</p>

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1 to produce during an inspection." Right?

2 A. Yes.

3 Q. At this time in January of 2017, this

4 new system was not yet functioning under this

5 policy; right?

6 A. On February -- excuse me -- January 27

7 it was not.

8 Q. Why then the idea that you would keep

9 this in the file in case there was an inspection?

10 A. If, in fact, we were asked to produce a

11 written copy or a document describing our process.

12 Q. But you had a formal -- I mean, you had

13 a policy document that was previously in effect,

14 right, prior to this one?

15 A. Yes, yes.

16 Q. Did you believe that that policy

17 document, the previous version, was problematic if

18 there was an investigation?

19 MR. KOBRIN: Object to form.

20 THE WITNESS: I did not think it was

21 problematic, no.

22 BY MR. HUDSON:

23 Q. Then why not keep it in the file and

24 show then that policy document and the current

25 system that existed if there was an inspection?

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1 A. I believe that we would have. I'm not

2 sure -- I believe that we would have. If we were

3 asked for that document, we would have.

4 Q. So you would have the old policy that

5 was in existence and then this new policy in the

6 file to show if there was an investigation?

7 MR. KOBRIN: Object to form.

8 BY MR. HUDSON:

9 Q. To show where --

10 A. To show our process.

11 Q. To show where the program, in other

12 words, to show where the new program was going

13 into the future? What would be the purpose of

14 putting this high level description of the new SOM

15 process in the file for an investigation?

16 MR. KOBRIN: Object to form.

17 BY MR. HUDSON:

18 Q. I'm not asking the question very well.

19 MR. KOBRIN: Object to form. Misleading

20 and vague.

21 THE WITNESS: It was a new process, so

22 we wanted in case -- if we had an inspection, we

23 wanted to be able to show what our process was and

24 describe, because during an investigation, there

25 could be -- it could be oral or it could be show

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1 me what processes you have in place.

2 BY MR. HUDSON:

3 Q. Right. I guess what I'm getting at,

4 this process though described in this policy, it

5 wasn't yet in place. In other words, it wasn't

6 occurring at Giant Eagle. This was just a draft

7 of the policy about a system that was going to be

8 put in place in the future; right?

9 MR. KOBRIN: Object to form.

10 BY MR. HUDSON:

11 Q. Did I misunderstand your testimony on

12 that?

13 A. No. I believe that's correct.

14 Q. Would you agree that this new system was

15 more robust than the previous system that was in

16 existence?

17 A. We were always looking to improve.

18 Whether I would use a word -- a description of

19 robust, it was different and it had some more

20 information that could help us during an

21 investigation.

22 Q. This would show in an investigation

23 because this would show that Giant Eagle would be

24 able to stop shipments prior to -- in other words,

25 if orders had been flagged, it would show that

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1 Giant Eagle was going to have the ability to stop

2 shipments while it was investigating?

3 A. Future shipments.

4 Q. In your mind, you're saying this is

5 future shipments only?

6 A. Future shipments, yes.

7 Q. To you this doesn't indicate that --

8 MR. KOBRIN: Object to form.

9 BY MR. HUDSON:

10 Q. -- Giant Eagle is stating that it can

11 stop the order that's being flagged as being

12 suspicious?

13 A. At this point, no.

14 Q. With the implementation of this new

15 program, did you believe that Giant Eagle's

16 suspicious order monitoring system was then at a

17 hundred percent in terms of compliance with

18 CFR 1301.74(b)?

19 MR. KOBRIN: Object to form.

20 THE WITNESS: We were always looking to

21 improve our system anywhere we could. This was

22 just another iteration of an improvement to our

23 system that we were hoping -- that we put in

24 place.

25

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1 BY MR. HUDSON:  
 2 Q. As a compliance officer, were there  
 3 things that you were hoping that Giant Eagle would  
 4 still be able to add later to help comply with the  
 5 distributor requirements of 1301.74(b)?  
 6 A. Yes. We were always looking to improve,  
 7 if there were any improvements that we could make.  
 8 Q. What were some, one or more improvements  
 9 that you were hoping that could be made in the  
 10 future that weren't part of this new policy?  
 11 MR. KOBRIN: Object to form.  
 12 THE WITNESS: One of the improvements  
 13 was to have a little bit more of an automated  
 14 process or a way to stop an order before it was  
 15 shipped.  
 16 BY MR. HUDSON:  
 17 Q. Is it your understanding that HBC has  
 18 reported two orders of controlled substances being  
 19 suspicious during the time it's been a distributor  
 20 of controlled substances, meaning from November of  
 21 2009 to the present?  
 22 A. Yes.  
 23 Q. And I think you testified one of those  
 24 was in December of 2013.  
 25 A. Correct.

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1 Q. And then the other one was in January of  
 2 2016.  
 3 A. I believe that to be correct, yes.  
 4 Q. Those were both buprenorphine?  
 5 A. Yes.  
 6 Q. I apologize if I'm mispronouncing that.  
 7 A. Pretty close.  
 8 Q. Feel free to correct me. There were no  
 9 suspicious orders of hydrocodone combination  
 10 products reported to the DEA as suspicious;  
 11 correct?  
 12 A. That's correct.  
 13 Q. And as you sit here today, do you  
 14 believe that from November of 2009 until October  
 15 of 2014 when HBC acted as a distributor of  
 16 hydrocodone combination products, that there were,  
 17 in fact, no suspicious orders that should have  
 18 been reported to the DEA?  
 19 A. I believe because of some of the  
 20 controls that we had in place at the distribution  
 21 center, HBC, at our pharmacies, at corporate, with  
 22 the processes that we were doing, that's correct.  
 23 We did not believe that we had any suspicious  
 24 orders.  
 25 Q. Would you agree that HBC acted as a

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1 distributor for millions of dosage units of  
 2 hydrocodone products that were distributed to the  
 3 200 Giant Eagle retail pharmacies; right?  
 4 A. Yes.  
 5 MR. KOBRIN: Object to form.  
 6 BY MR. HUDSON:  
 7 Q. And of those, about 40 of those were in  
 8 Cuyahoga and Summit County?  
 9 MR. KOBRIN: Object to form.  
 10 BY MR. HUDSON:  
 11 Q. Does that sound right, in the ballpark?  
 12 A. In the ballpark, yes.  
 13 Q. Is it your view that there were more  
 14 likely than not orders that were trying to be  
 15 diverted, in other words, that there were  
 16 suspicious orders where there were patients or  
 17 others trying to divert controlled substances, but  
 18 Giant Eagle or HBC had controls in place to catch  
 19 those, or do you believe that there just weren't  
 20 ever any attempts at diversion?  
 21 MR. KOBRIN: Object to form.  
 22 THE WITNESS: I believe that Giant Eagle  
 23 had controls in place to catch orders or catch any  
 24 type of diversion that may have been going on not  
 25 only at the warehouse, but we had controls at our

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1 retail pharmacies as well and at corporate, the  
 2 corporate level also. So we did have controls to  
 3 monitor and look for those types of...  
 4 BY MR. HUDSON:  
 5 Q. I didn't mean to cut you off. Go ahead  
 6 and finish your answer. I apologize.  
 7 A. I just meant we had controls in place to  
 8 monitor. We had, as I said, controls at all  
 9 levels, warehouse, retail pharmacy and corporate  
 10 office.  
 11 Q. So let's just go through that then.  
 12 We've got the corporate level; right?  
 13 A. Yes.  
 14 Q. We've got controls there?  
 15 A. Yes.  
 16 Q. Then we've got the warehouse?  
 17 A. Correct.  
 18 Q. And that's the distributor warehouse;  
 19 right?  
 20 A. Yes.  
 21 Q. And that's HBC?  
 22 A. Yes.  
 23 Q. You've got controls there?  
 24 A. Yes.  
 25 Q. And then you've got the retail

<p style="text-align: right;">Page 250</p> <p>1 pharmacies, and that's the Giant Eagle 200 retail  2 pharmacies; right?  3 A. Correct.  4 Q. At the corporate level, how many  5 suspicious orders were caught due to the controls  6 that were in place?  7 MR. KOBRIN: Object to form.  8 THE WITNESS: A suspicious order I don't  9 necessarily think -- a suspicious order would have  10 been the buprenorphine situations.  11 BY MR. HUDSON:  12 Q. What were the corporate controls that  13 you're alluding to? What were the controls that  14 existed?  15 A. The fact that we had tools in place to  16 monitor purchases, monitor dispensing. Of course,  17 we had the reports that we were getting on a daily  18 basis. We had internal audits that an internal  19 auditing group would do at our pharmacies. We had  20 PDLs doing audits and going into their pharmacies.  21 They're required on a quarterly basis to do audits  22 on their pharmacies.  23 Q. Anything specific though to flagging  24 suspicious orders of controlled substances under  25 Section -- in other words, the suspicious order</p>	<p style="text-align: right;">Page 252</p> <p>1 how many prescriptions that a pharmacist checked  2 or denied because they felt that there was some  3 reason that the prescription was going to be  4 diverted.  5 BY MR. HUDSON:  6 Q. And I assume there's no log or  7 repository or place where I could go and look and  8 try to figure out within Giant Eagle how many of  9 the pharmacists decided not to fill prescriptions?  10 A. Not that I know of, no.  11 Q. So as you sit here today, can you point  12 to any specific instances where Giant Eagle had  13 retail pharmacy controls in place where a  14 pharmacist refused to fill a prescription for a  15 controlled substance because he or she believed it  16 was at risk for diversion?  17 A. Pharmacists -- we have our controlled  18 drug dispensing guideline that discussed red flag  19 situations to be -- to look out for. We also had  20 audits in place, but mainly the controlled  21 substance dispensing guideline to help, because we  22 rely on our pharmacists, their professional  23 judgment, as well as relying on the law whenever  24 they need to in determining whether a prescription  25 should be filled or not.</p>
<p style="text-align: right;">Page 251</p> <p>1 monitoring system under Section 1301.47(b)?  2 MR. KOBRIN: Object to form. Asked and  3 answered.  4 THE WITNESS: Pharmacies would -- the  5 pharmacies would where they felt that there was  6 something -- if they had a prescription that  7 was -- didn't quite look to them that it was  8 legitimate, they would always verify and validate  9 prescriptions.  10 BY MR. HUDSON:  11 Q. At the Giant Eagle retail pharmacies,  12 how many prescriptions were there that were of  13 controlled substances that were attempted to be  14 filled, but the pharmacist refused to fill the  15 prescription because they determined that there  16 was a risk of diversion?  17 A. I don't have --  18 MR. KOBRIN: Object to form. Do you  19 have a time period?  20 Let me make sure I get my objection in.  21 Is there a time period for that, or is that  22 an open-ended question?  23 MR. HUDSON: It's an open-ended  24 question.  25 THE WITNESS: I couldn't speculate on</p>	<p style="text-align: right;">Page 253</p> <p>1 Q. Right. All I'm asking is: As you sit  2 here today, you don't know how many red flags  3 there were though at Giant Eagle retail  4 pharmacies?  5 MR. KOBRIN: Object to form.  6 THE WITNESS: I would not be able to.  7 BY MR. HUDSON:  8 Q. And you wouldn't know how many times a  9 pharmacist flagged an order but decided not to  10 fill it because it was at risk for diversion?  11 A. I would have no way.  12 MR. KOBRIN: Object to form.  13 Give me time to object.  14 BY MR. HUDSON:  15 Q. So in terms of the retail pharmacy  16 controls, can you say as you sit here today how  17 effective they were in terms of data that would  18 show whether there were or were not prescriptions  19 that were stopped because of the risk of  20 diversion?  21 A. I don't have any data that I can point  22 to for any specifics on that.  23 Q. Would that be the same for the corporate  24 level controls, in other words, there's no data  25 that we can point to or look at to try to figure</p>



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1 out how effective the corporate controls were in  
 2 preventing diversion?  
 3 MR. KOBRIN: Object to form. Misstates  
 4 the evidence.  
 5 THE WITNESS: That's correct.  
 6 MR. HUDSON: I don't have any further  
 7 questions.  
 8 MR. KOBRIN: Go off the record real  
 9 quick.  
 10 THE VIDEOGRAPHER: The time is 4:15 p.m.  
 11 We're going off the video record.  
 12 (Recess from 4:15 p.m. to 4:39 p.m.)  
 13 THE VIDEOGRAPHER: The time is 4:39 p.m.  
 14 We're now back on the video record.  
 15 EXAMINATION  
 16 BY MR. KOBRIN:  
 17 Q. Mr. Chunderlik, do you remember being  
 18 asked questions about the so-called suspicious  
 19 order regulation at Section 1301.74(b) this  
 20 morning?  
 21 A. Yes.  
 22 Q. And that is, I believe, Exhibit 3, if  
 23 you want to look at that. During any time during  
 24 your deposition, were you shown the security  
 25 regulation, which is at 1301.71 of the Code of

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1 Federal Regulations?  
 2 A. No.  
 3 Q. Sitting here today, what do you  
 4 understand the security regulation to be?  
 5 A. The security regulation, it's a system  
 6 of controls to put in place to protect the  
 7 integrity and the safety of medication and to help  
 8 prevent diversion into illicit markets.  
 9 Q. Do you understand that to be the main  
 10 requirement that distributors are supposed to meet  
 11 under the Controlled Substances Act?  
 12 MR. HUDSON: Object to the form.  
 13 THE WITNESS: That is a section of it  
 14 and it is -- there are multiple pieces that go  
 15 along with that.  
 16 BY MR. KOBRIN:  
 17 Q. Is that the overarching requirement to  
 18 your understanding?  
 19 A. Yes, yes.  
 20 Q. Did HBC meet that requirement at all  
 21 times --  
 22 MR. HUDSON: Object to the form.  
 23 BY MR. KOBRIN:  
 24 Q. -- that are relevant to this litigation,  
 25 so starting in 2009 and running all the way to the

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1 present?  
 2 A. Yes.  
 3 Q. So in answering yes, are you saying that  
 4 it met the requirement both before and after it  
 5 had a suspicious order monitoring threshold,  
 6 automated system, whatever you want to call it,  
 7 that it met the requirement before it had that  
 8 system?  
 9 A. Yes.  
 10 Q. And did it meet the requirement after it  
 11 had the system?  
 12 A. Yes.  
 13 Q. Looking back at 1301.74, it says, "The  
 14 registrant must design and operate a system to  
 15 disclose to the registrant suspicious orders of  
 16 controlled substances."  
 17 Do you understand that to be the only factor  
 18 that's taken into consideration for the security  
 19 requirement?  
 20 A. No. That's a subsection of the entire  
 21 requirement.  
 22 Q. Can you think of any other factors? For  
 23 example, is the physical security of the warehouse  
 24 one of the factors?  
 25 A. Yes, it is.

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1 Q. Is record keeping one of the factors?  
 2 A. Record keeping is one of the factors,  
 3 yes.  
 4 Q. Are controls on the way that the  
 5 controlled substances are distributed, is that one  
 6 of the factors?  
 7 A. Yes.  
 8 Q. Is security at the warehouse one of the  
 9 factors?  
 10 A. Yes.  
 11 Q. Is the type of drugs being distributed  
 12 one of the factors?  
 13 A. Yes.  
 14 Q. Is to whom the drugs are being  
 15 distributed to one of the factors?  
 16 A. Yes.  
 17 Q. Did HBC or was HBC ever a registered  
 18 distributor of Schedule II controlled substances?  
 19 A. No.  
 20 Q. Are opioids generally under Schedule II?  
 21 A. Generally, yes.  
 22 Q. Is there an exception? Was there ever a  
 23 time when opioids were not Schedule II or any kind  
 24 of particular opioid was not a Schedule II?  
 25 A. Yes. Prior to October of 2014,

<p style="text-align: right;">Page 258</p> <p>1 hydrocodone and hydrocodone combination products  2 were in Schedule III.  3 Q. And after October of 2014, what were  4 they reclassified as?  5 A. All hydrocodone and hydrocodone  6 combination products were rescheduled as Schedule  7 II controlled substances.  8 Q. Did HBC ever distribute hydrocodone  9 combination products when they were classified as  10 a Schedule II controlled substance?  11 A. No, they did not.  12 Q. Did HBC ever distribute any Schedule II  13 controlled substances?  14 A. No, it did not.  15 Q. Did HBC take that into account when  16 determining its compliance with the security  17 requirement?  18 A. Yes.  19 Q. Did HBC consider the quantity of  20 controlled substances it was handling when it  21 designed its overall security system and  22 determined its compliance with the security  23 requirement?  24 A. Yes.  25 Q. Did HBC consider the internal controls</p>	<p style="text-align: right;">Page 260</p> <p>1 cage?  2 A. Yes, it did.  3 Q. Was there controlled access to that  4 cage?  5 A. There was controlled access, yes.  6 Q. Do you know whether that cage was  7 inspected and approved by the DEA?  8 A. It was, yes.  9 Q. Do you know if admittance to that cage  10 was controlled and limited to only certain  11 personnel?  12 A. Yes.  13 Q. When you visited HBC warehouse, was it  14 clear that they had taken any steps in order to be  15 compliant with the Controlled Substances Act?  16 A. Yes.  17 Q. So the people at the HBC warehouse were  18 aware of the Controlled Substances Act?  19 MR. HUDSON: Object to the form.  20 THE WITNESS: Yes.  21 BY MR. KOBRIN:  22 Q. Do you know whether the people at the  23 warehouse were aware of the Controlled Substances  24 Act?  25 A. Yes.</p>
<p style="text-align: right;">Page 259</p> <p>1 over the receipt of controlled substances it was  2 handling when it determined it was in compliance  3 with the security requirements?  4 A. Yes.  5 Q. Did HBC consider the physical security  6 features of its facility --  7 A. Yes.  8 Q. -- when it determined it was in  9 compliance with the security requirements?  10 A. Yes.  11 Q. Did HBC get frequent visits from the  12 DEA?  13 A. They got visits from the DEA, yes.  14 Q. What was the purpose of those visits?  15 A. To do reconciliation audits to see if we  16 were also complying with the security requirements  17 that were required as part of the Act and that we  18 had controls in place.  19 Q. Did the DEA ever tell HBC that they were  20 not meeting the security requirements under the  21 regulations, under the regulation related to the  22 Controlled Substances Act?  23 A. Not that I know of, no.  24 Q. With respect to the HBC warehouse that  25 you visited, do you recall whether it had a locked</p>	<p style="text-align: right;">Page 261</p> <p>1 Q. And they had procedures in place to  2 comply with the Controlled Substances Act;  3 correct?  4 MR. HUDSON: Object to the form.  5 BY MR. KOBRIN:  6 Q. Did they have procedures in place to  7 comply with the Controlled Substances Act,  8 Mr. Chunderlik?  9 A. Yes.  10 Q. Did you know that they had procedures in  11 place to comply with the Controlled Substances Act  12 when you first took over as compliance manager in  13 2012?  14 A. Yes.  15 Q. Opposing counsel asked you several  16 questions about the threshold emails that you  17 received beginning in December 2013.  18 Do you remember that?  19 A. Yes.  20 Q. And several times he asked you if you  21 could point to a specific order that popped up on  22 the threshold emails and you could tell him what  23 you did or what anyone did in order to do due  24 diligence on that flagged order. Do you remember  25 that?</p>

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1 A. Yes.  
2 Q. Is there a way for you to estimate how  
3 many of those orders popped up a year that you  
4 guys ran down and did due diligence on? Was it  
5 more than ten?  
6 A. Yes.  
7 Q. More than 20?  
8 A. Yes.  
9 Q. Possibly even more than a hundred?  
10 A. Yes.  
11 Q. And you can't remember every one of  
12 them, can you?  
13 A. No, I can't.  
14 Q. Did you attempt to memorize all of the  
15 due diligence or all of the orders that popped up  
16 on those threshold emails for this deposition?  
17 A. No.  
18 Q. You mentioned earlier that you're a  
19 pharmacist; correct?  
20 A. That's correct.  
21 Q. What degrees in pharmacy do you have?  
22 A. A bachelor of science of pharmacy.  
23 Q. And have you ever practiced as a  
24 pharmacist in a pharmacy store?  
25 A. I have, yes.

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1 Q. Are you familiar with dispensing  
2 practices?  
3 A. I am, yes.  
4 Q. Are you familiar with the dispensing  
5 practices at Giant Eagle pharmacies?  
6 A. Yes.  
7 Q. At the Giant Eagle pharmacy stores, are  
8 there internal controls over controlled  
9 substances?  
10 A. Yes, there are.  
11 Q. Are there physical controls over  
12 controlled substances?  
13 A. Yes.  
14 Q. What kind of physical controls? Is it  
15 safes?  
16 A. Locked cabinets, locked safes primarily.  
17 Q. Is there limited access to those locked  
18 cabinets and safes?  
19 A. There are limited access to the narcotic  
20 cabinets and the safes.  
21 Q. Does Giant Eagle train pharmacists to  
22 keep tight controls over its controlled  
23 substances?  
24 A. Yes.  
25 Q. Are those policies and procedures

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1 monitored by loss prevention?  
2 A. Yes.  
3 Q. Are the pharmacies monitored by loss  
4 prevention?  
5 A. Yes.  
6 Q. Are there internal audits of the  
7 pharmacies?  
8 A. Yes.  
9 Q. Are the pharmacists and the pharmacy  
10 techs trained and supervised?  
11 A. Yes, they are.  
12 Q. In fact, you were involved in the  
13 supervision of those pharmacy techs, weren't you?  
14 A. That's correct.  
15 Q. Does Giant Eagle impose policies and  
16 procedures on pharmacists and pharmacy techs with  
17 respect to the way it dispenses controlled  
18 substances?  
19 MR. HUDSON: Object to the form.  
20 THE WITNESS: No, we do not.  
21 BY MR. KOBRIN:  
22 Q. You don't impose any policies and  
23 procedures about how they dispense prescriptions?  
24 A. We have a controlled drug dispensing  
25 guideline that we have communicated out to our

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1 pharmacists and pharmacy team members.  
2 Q. And do you also have a DEA pharmacist  
3 manual that you communicate out to your  
4 pharmacists and team members?  
5 A. Yes, we do.  
6 Q. Is that available in every Giant Eagle  
7 pharmacy?  
8 A. It is readily available at each Giant  
9 Eagle pharmacy.  
10 Q. And you mentioned that Giant Eagle has  
11 controlled substance dispensing guidelines.  
12 A. Yes, that's correct.  
13 Q. Does it include red flags, things to  
14 watch for in terms of whether a prescription is  
15 legitimate or not?  
16 A. That is correct, yes.  
17 Q. Could you look at Exhibit 10. I'll find  
18 it, too. Earlier today opposing counsel had you  
19 looking at the risk assessment red and green flags  
20 that are listed under Section 3(b) in the email  
21 from Joseph Millward in this exhibit. Do you see  
22 that?  
23 A. Yes, I do.  
24 Q. Are those red flags for the pharmacy or  
25 are they for the warehouse?

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1 A. They would be for the pharmacy.  
2 Q. They would apply to the manner in which  
3 pharmacists are judging potential customers who  
4 come in; correct?  
5 A. That's correct.  
6 Q. Is that a kind of pharmacy control that  
7 would be listed in the controlled substance  
8 dispensing guidelines that are at every Giant  
9 Eagle pharmacy?  
10 A. Yes; yes, sir.  
11 Q. To your knowledge, has the DEA ever  
12 raised an issue about a pharmacy store's  
13 compliance, a Giant Eagle pharmacy store's  
14 compliance with the Controlled Substances Act?  
15 MR. HUDSON: Object to the form.  
16 THE WITNESS: No.  
17 BY MR. KOBRIN:  
18 Q. We talked a little bit about controls at  
19 pharmacies. Are pharmacists required to  
20 immediately update a store's controlled substance  
21 inventory when it receives incoming orders?  
22 MR. HUDSON: Objection. No foundation.  
23 THE WITNESS: The system can do that  
24 whenever they receive the order into the pharmacy.  
25

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1 BY MR. KOBRIN:  
2 Q. When a pharmacist fills a controlled  
3 substance prescription, is the store inventory  
4 immediately updated for outgoing prescriptions?  
5 A. Yes.  
6 Q. At the end of the day, is there a check  
7 of remaining balances of the controlled substance  
8 at the stores?  
9 A. In controlled substances and Schedule II  
10 items, the pharmacy does a perpetual back count of  
11 what should be remaining on the shelf after they  
12 dispense a prescription.  
13 Q. What does that mean, a perpetual back  
14 count?  
15 A. After each time a prescription goes  
16 through the filling process, the pharmacist is  
17 required to go back and count the remaining  
18 inventory that's in the -- for that product and  
19 log it into the electronic database within our  
20 pharmacy data management system.  
21 Q. Are you familiar with the term monthly  
22 narc audit?  
23 A. I am, yes.  
24 Q. What is a monthly narc audit?  
25 A. The monthly narc audit is a program that

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1 was developed by Giant Eagle to reconcile  
2 inventory. It will show the purchases for a given  
3 time period as to when the audit was conducted and  
4 show all dispensing. And at the end of doing that  
5 calculation, there is an actual -- there is an  
6 expected on-hand count that is shown to the  
7 pharmacy.  
8 They do the count, and then they update it  
9 with the actual count that is remaining in  
10 inventory.  
11 Q. Do you also have annual audits of  
12 inventories at Giant Eagle pharmacies?  
13 A. We do annual inventory counts at each  
14 pharmacy, yes, of all controlled substances.  
15 Q. Can you tell me what a PDL is?  
16 A. PDL is an acronym at Giant Eagle for  
17 pharmacy district leader.  
18 Q. What do the PDLs do?  
19 A. The PDLs -- each PDL has roughly 29 to  
20 33 stores that they are responsible for business  
21 oversight of a particular region.  
22 Q. Do they regularly visit the stores?  
23 A. They do regularly visit the stores, yes.  
24 Q. When the compliance team did due  
25 diligence on any orders that flagged or any orders

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1 that they wanted to investigate further, would the  
2 PDLs be a good source of information as to what  
3 was going on --  
4 A. The PDL is a very good source of  
5 information, yes.  
6 Q. Did you and others at Giant Eagle  
7 corporate office utilize the PDLs when doing due  
8 diligence at stores and on orders?  
9 A. Yes, sir; yes.  
10 Q. Do PDLs conduct audits or inquiries  
11 concerning procedures at the stores?  
12 A. They do.  
13 Q. Do they supervise the training of  
14 pharmacists at all? Are they involved in the  
15 supervising and training of pharmacists?  
16 A. They do have a part in supervising the  
17 training. As part of their audit, they would look  
18 to see if required training was being conducted by  
19 the pharmacist or that team members were doing  
20 some computer-based training programs that had  
21 been assigned to them.  
22 Q. That would be like continuing education?  
23 A. Possibly, yes.  
24 Q. Do the stores, do the Giant Eagle  
25 pharmacy stores work with local law enforcement?



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1 A. Yes, they do.  
2 Q. Do the Giant Eagle pharmacy stores work  
3 with local police departments?  
4 A. Yes.  
5 Q. Do the Giant Eagle pharmacy stores work  
6 with the Board of Pharmacy inspectors in each  
7 state?  
8 A. Yes, they do.  
9 Q. Do the Giant Eagle pharmacy stores and  
10 their employees work with DEA agents?  
11 A. They have, yes.  
12 Q. Would you characterize that relationship  
13 between the stores and these law enforcement  
14 agencies as a cooperative working relationship?  
15 A. Yes, I would, very cooperative.  
16 Q. In working with local law enforcement  
17 and the DEA, has Giant Eagle been able to uncover  
18 people who are attempting to pass bad scripts?  
19 A. Yes, we have.  
20 Q. Does Giant Eagle have a pharmacy  
21 investigator?  
22 A. Yes, we do.  
23 Q. And does he also work with local law  
24 enforcement in trying to apprehend people who are  
25 passing bad scripts?

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1 A. Yes, sir.  
2 Q. Can you think of actually sitting here  
3 today -- I'm not asking you to go into detail, but  
4 are you sure that Giant Eagle has actually done  
5 that? Have they actually successfully cooperated  
6 and worked with law enforcement in order to  
7 apprehend the people who are passing bad scripts?  
8 A. Yes, sir.  
9 Q. You can think of actual specific  
10 situations where that has occurred?  
11 A. Yes, I can.  
12 Q. Are you familiar with the term or rather  
13 the acronym BOLO, B-O-L-O?  
14 A. I am, yes.  
15 Q. What is BOLO?  
16 A. That's an acronym that stands for be on  
17 the lookout.  
18 Q. What does that mean?  
19 A. I believe the genesis of it is maybe a  
20 law enforcement term to be -- in our situation, it  
21 would be to be on the lookout for bad scripts  
22 coming into the pharmacy, bad calls being made  
23 into the pharmacy, used to alert our pharmacists  
24 and our team members that there may be situations  
25 where somebody has come into a pharmacy and tried

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1 to pass a bad script.  
2 Quite frequently we send out these types of  
3 alerts to neighboring stores or a region of stores  
4 just to be on the lookout. If you see anybody  
5 coming in matching a description or coming in with  
6 a prescription from something that has been deemed  
7 a bad script, we have BOLOs sent out from our loss  
8 prevention investigator to be on the lookout for  
9 these things.  
10 Q. Has a BOLO at GE pharmacies ever led to  
11 the apprehension of someone trying pass a bad  
12 script?  
13 A. Yes, it has.  
14 Q. You can think of actual specific  
15 situations?  
16 A. Yes.  
17 Q. Opposing counsel asked you earlier today  
18 about pharmacists turning people away and refusing  
19 to fill their prescriptions. Do you remember  
20 that?  
21 A. I do remember that, yes.  
22 Q. He wanted you to tell him specific  
23 situations or the number of people or scripts that  
24 have been turned away over a period of five years  
25 between X date and X date. Do you remember that?

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1 A. Yes, I do.  
2 Q. Without getting into that level of  
3 detail, are you certain that pharmacists at Giant  
4 Eagle pharmacies during the period in question,  
5 which I think opposing counsel asked you about  
6 2009 to 2014, are you certain that they turned  
7 away people --  
8 A. Yes.  
9 Q. -- who had scripts that they were not  
10 comfortable filling?  
11 A. Yes.  
12 Q. You can think of particular  
13 circumstances where that happened?  
14 A. Yes, I can.  
15 Q. Does Giant Eagle support its pharmacists  
16 when it turns away people who want to have their  
17 scripts filled because the pharmacist is  
18 uncomfortable filling the script?  
19 A. It does, yes.  
20 Q. Is that part of its policies and  
21 procedures or is that written anywhere that it  
22 will support people who do that?  
23 A. It's part of our controlled drug  
24 dispensing guideline documents.  
25 Q. You mentioned that that's something that

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1 you kind of want to tell people in a written  
2 format and you kind of supported your pharmacists  
3 in the fact that they can turn away prescriptions  
4 if they don't feel comfortable filling; right?  
5 A. That's correct.  
6 Q. That's a policy you put in writing or  
7 that's a position you put in writing?  
8 A. That is a position that we did put in  
9 writing, yes.  
10 Q. Why do you put everything in writing?  
11 Opposing counsel asked you a lot today about why  
12 there's no policy about every single law or every  
13 single thing that you want someone working at the  
14 warehouse or someone working at corporate or  
15 someone working at the pharmacies. How come  
16 everything isn't written into writing?  
17 A. We don't necessarily take a law and make  
18 it into a policy because the law is already  
19 written, and we would expect -- our expectation is  
20 that all of our pharmacy team members follow the  
21 law.  
22 Q. So you don't generally put legal  
23 requirements into a policy document?  
24 A. Not necessarily. We do not.  
25 Q. At the very beginning of the day,

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1 opposing counsel asked you about meetings,  
2 conferences, the documents that you read to kind  
3 of educate yourself on compliance with the  
4 Controlled Substances Act. Do you remember that?  
5 A. Yes, I do.  
6 Q. I don't want to get into too much detail  
7 here. But shortly after you took on the position  
8 as the manager of compliance, did you have  
9 meetings with counsel where you talked about the  
10 regulations that were related to Controlled  
11 Substances Act?  
12 A. Yes, I did.  
13 MR. HUDSON: Object to the form.  
14 MR. KOBRIN: What's your objection?  
15 MR. HUDSON: What's that?  
16 MR. KOBRIN: What's the objection?  
17 MR. HUDSON: Object to the form and also  
18 you're asking questions about meeting the lawyers.  
19 MR. KOBRIN: What's your form objection?  
20 MR. HUDSON: It may open the door to me  
21 asking those same questions.  
22 MR. KOBRIN: That's fine. That's why I  
23 said that he doesn't need to get into what he's  
24 talking about.  
25 What's the form objection?

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1 MR. HUDSON: What's that?  
2 MR. KOBRIN: What's the form objection?  
3 MR. HUDSON: It's vague.  
4 BY MR. KOBRIN:  
5 Q. Did you have meetings on a regular basis  
6 with attorneys related to the Controlled  
7 Substances Act and regulations?  
8 A. Yes.  
9 Q. Could you look at Exhibit 8. Turn to  
10 the page in the exhibit marked Bates number 64414.  
11 We're going to the pages opposing counsel had you  
12 look at. These were factors, I believe, that  
13 opposing counsel had you look at for SOM  
14 measurements.  
15 One of them is controlled versus  
16 noncontrolled; right?  
17 A. That is correct, yes.  
18 Q. Cash payments versus third-party  
19 payments?  
20 A. Yes.  
21 Q. Variety of drugs prescribed or  
22 dispensed?  
23 A. Yes.  
24 Q. Schedule II versus schedule III through  
25 V, do you see that?

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1 A. Yes.  
2 Q. Again, we spoke earlier. Did HBC ever  
3 distribute Schedule II?  
4 A. No, they did not.  
5 Q. Did they only distribute Schedule III  
6 through V narcotics?  
7 A. Yes.  
8 Q. Would you look at Exhibit 19. Do you  
9 remember opposing counsel asking you about  
10 Exhibit 19 earlier today?  
11 A. I do, yes.  
12 Q. Would you tell me the date of  
13 Exhibit 19?  
14 A. This would be September 28, 2015.  
15 Q. That's from Robert McClune to you and  
16 others; correct?  
17 A. That is correct, yes, sir.  
18 Q. Could you read the line right after the  
19 number one in the email?  
20 A. "McKesson/Anda blocks the controlled  
21 substance order to the store based on their  
22 managed thresholds."  
23 Q. Now, you told opposing counsel that this  
24 might have related to Giant Eagle's preparation  
25 for the GERX facility.

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1 Does reading bullet number one there, does  
 2 reading "McKesson and Anda blocks," does reading  
 3 that line refresh your memory on what this email  
 4 is really about?  
 5 A. This would be ordering our controlled  
 6 substances from McKesson and Anda, not the Giant  
 7 Eagle RX distribution center.  
 8 Q. Could you just scan the content of the  
 9 email really quickly because I want to ask you  
 10 kind of general. I want to make sure you've had  
 11 the opportunity. If you're comfortable with the  
 12 content of it, that's fine, but I want you to take  
 13 the chance to really look at it.  
 14 A. Okay.  
 15 Q. Now you've taken the time to really look  
 16 at it in the context of what we just discussed, is  
 17 there anything in this email about distribution  
 18 from Giant Eagle's GERX distribution facility?  
 19 A. No.  
 20 Q. Is there anything in this email about  
 21 distribution from Giant Eagle's HBC distribution  
 22 facility?  
 23 A. No.  
 24 Q. Go to Exhibit 22. I want to clarify for  
 25 the record. You talked a lot about how this

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1 was -- the policies and procedures that were going  
 2 into effect that maybe weren't in effect at the  
 3 time that this was created, and opposing counsel  
 4 asked you questions about whether -- why you were  
 5 going to keep this on file. Do you recall that?  
 6 A. I do.  
 7 Q. Shortly after the date of the email,  
 8 January 27, 2017 --  
 9 A. Yes.  
 10 Q. -- did Giant Eagle begin to follow the  
 11 procedures outlined in this suspicious order  
 12 monitoring policy?  
 13 A. Yes.  
 14 Q. And that was in February of 2017 that it  
 15 began following those policies?  
 16 A. That is correct.  
 17 Q. So when you said that it wasn't in  
 18 effect on the 27th of January, you meant the date  
 19 of this email; correct?  
 20 A. Yes, I did.  
 21 Q. You talked a little bit about always  
 22 trying to improve and updating the policies. Do  
 23 you recall that?  
 24 A. Yes, I do.  
 25 Q. And that this new document was mainly to

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1 reflect steps that you were taking to always  
 2 constantly improve, constantly innovate,  
 3 constantly trying to make things better even if  
 4 you were already in compliance.  
 5 A. That is correct, yes.  
 6 Q. Do you recall, and I think it's outlined  
 7 in this document, that at this time in 2017, you  
 8 began running a threshold system through CSOS?  
 9 A. That is correct, yes, sir.  
 10 Q. And what is CSOS?  
 11 A. CSOS is an electronic controlled  
 12 substances ordering system used for -- to be able  
 13 to order Schedule II controlled substances  
 14 electronically versus using a manual DEA 222 form  
 15 to do that ordering.  
 16 Q. So if you're using CSOS, all of your  
 17 Schedule II controlled substance orders are going  
 18 through an electronic system?  
 19 A. That is correct.  
 20 Q. And it would be all Schedule IIs that  
 21 would go through CSOS?  
 22 A. That is correct.  
 23 Q. So if there were a threshold system that  
 24 were put on -- that were integrated with CSOS,  
 25 that threshold system would apply to all Schedule

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1 II orders?  
 2 A. That is correct, yes.  
 3 Q. Would it apply to Schedule II orders  
 4 going to HBC?  
 5 A. Yes, it would.  
 6 Q. But HBC didn't distribute Schedule IIs;  
 7 correct?  
 8 A. That is correct. HBC did not distribute  
 9 Schedule II controlled substances.  
 10 Q. Would it apply to Schedule II orders  
 11 going to GERX, Giant Eagle's RX distribution  
 12 center?  
 13 A. Yes.  
 14 Q. Would it apply to Schedule II orders  
 15 going to McKesson?  
 16 A. Yes, it would.  
 17 Q. Would it apply to Schedule II orders  
 18 going to Anda?  
 19 A. Yes.  
 20 Q. When you integrated the threshold system  
 21 into CSOS in early 2017, do you recall whether  
 22 that new threshold system was able to stop an  
 23 order?  
 24 A. That new threshold system could stop an  
 25 order, yes.

<p style="text-align: right;">Page 282</p> <p>1 Q. It could stop an order?</p> <p>2 A. It could, yes.</p> <p>3 Q. Before it left the warehouse?</p> <p>4 A. That is correct.</p> <p>5 Q. So if an order flagged in the new</p> <p>6 system, it would stop the order before it left the</p> <p>7 warehouse?</p> <p>8 A. That is correct, yes.</p> <p>9 Q. And that system applied to all Schedule</p> <p>10 II controlled substance orders?</p> <p>11 A. Yes.</p> <p>12 Q. That were going to a Giant Eagle</p> <p>13 pharmacy?</p> <p>14 A. Yes.</p> <p>15 Q. Because earlier you had said that you</p> <p>16 thought that Giant Eagle wasn't able to stop an</p> <p>17 order until 2018. You were mistaken then?</p> <p>18 A. I was mistaken, yes.</p> <p>19 Q. If an order is flagged in any of these</p> <p>20 systems, Mr. Chunderlik, does that mean that the</p> <p>21 order of controlled substances is going to be</p> <p>22 diverted?</p> <p>23 A. No, it does not.</p> <p>24 Q. If an order is investigated by people in</p> <p>25 compliance or people at the warehouse, does that</p>	<p style="text-align: right;">Page 284</p> <p>1 BY MR. HUDSON:</p> <p>2 Q. Mr. Chunderlik, what are all the</p> <p>3 requirements of the Controlled Substances Act?</p> <p>4 A. I can't speak -- I can't rattle off all</p> <p>5 the various aspects of the Controlled Substances</p> <p>6 Act, but if I have it in front of me here, I can.</p> <p>7 Q. So if you don't know what all the</p> <p>8 requirements of the Controlled Substances Act are,</p> <p>9 how can you testify here today to this jury that</p> <p>10 Giant Eagle or HBC is in compliance with all of</p> <p>11 the requirements of the Controlled Substances Act?</p> <p>12 MR. KOBRIN: Object to form. If you</p> <p>13 want to show him the Controlled Substances Act --</p> <p>14 THE WITNESS: I could go to the</p> <p>15 Controlled Substances Act. I had that. That was</p> <p>16 available to me.</p> <p>17 BY MR. HUDSON:</p> <p>18 Q. Well, opposing counsel didn't show</p> <p>19 you -- HBC's counsel didn't show you the</p> <p>20 Controlled Substances Act. He just asked you was</p> <p>21 HBC at all times in compliance with the Controlled</p> <p>22 Substances Act; right?</p> <p>23 A. Yes.</p> <p>24 Q. And you said yes.</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 283</p> <p>1 mean that the order is going to be diverted?</p> <p>2 A. No, it does not.</p> <p>3 Q. What does it mean? What happens to</p> <p>4 these pills after they're moved from the warehouse</p> <p>5 to the pharmacy?</p> <p>6 A. Whenever they're moved to the pharmacy,</p> <p>7 they're used to fill prescriptions, legal</p> <p>8 prescriptions. Once they leave our warehouse,</p> <p>9 they go from the shelf at the warehouse to the</p> <p>10 pharmacy shelf to be dispensed for legitimate</p> <p>11 prescriptions.</p> <p>12 Q. Mr. Chunderlik, was Giant Eagle always</p> <p>13 in compliance with the Controlled Substances Act</p> <p>14 and its regulations?</p> <p>15 MR. HUDSON: Object to the form. Calls</p> <p>16 for a legal conclusion.</p> <p>17 THE WITNESS: Yes.</p> <p>18 BY MR. KOBRIN:</p> <p>19 Q. In your opinion, was it in compliance</p> <p>20 both before and after it had an automated</p> <p>21 threshold system?</p> <p>22 A. Yes, I believe so.</p> <p>23 Q. Thank you.</p> <p>24 RE-EXAMINATION</p> <p>25</p>	<p style="text-align: right;">Page 285</p> <p>1 Q. So tell me all the ways in which HBC was</p> <p>2 in compliance with the Controlled Substances Act.</p> <p>3 A. Well, we had physical controls in place.</p> <p>4 All of our controlled substances were in approved,</p> <p>5 DEA-approved cage under lock and key. There were</p> <p>6 controls that limited access to only individuals</p> <p>7 who should have access to the distribution of</p> <p>8 those substances.</p> <p>9 Our facility was under video surveillance 24</p> <p>10 hours a day. We had security guards in place</p> <p>11 during off hours to ensure that there was no entry</p> <p>12 into the warehouse. The DEA had been to our</p> <p>13 warehouse and approved all the security controls</p> <p>14 that we did have in place at that warehouse.</p> <p>15 Q. And those are all -- what you just</p> <p>16 described are all physical controls; correct?</p> <p>17 A. Yes.</p> <p>18 Q. Those are aimed at trying to prevent</p> <p>19 theft of controlled substances; right?</p> <p>20 A. I would say yes.</p> <p>21 Q. But you agree that there's a completely</p> <p>22 independent obligation for distributors to monitor</p> <p>23 suspicious orders; right?</p> <p>24 A. I don't necessarily believe that it's</p> <p>25 independent of the security act, the controlled</p>



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1 substance security act. I think it's the part of  
2 a whole. It's one subsection of that entire  
3 section.  
4 Q. So in your mind, if HBC had in place the  
5 proper physical controls, would that alleviate the  
6 need to have a more robust monitoring system for  
7 suspicious orders at the distributor level?  
8 A. No. I don't believe it would alleviate  
9 them from having to have that in place, no.  
10 Q. And that's because independent of the  
11 physical security requirements, there's a  
12 completely separate provision, section (b), that  
13 relates to monitoring suspicious orders; right?  
14 A. It's part of the Act, yes.  
15 Q. And you agree though that that's a  
16 separate obligation that HBC must meet; right?  
17 A. Yes.  
18 Q. And you agree that the first written  
19 policy that was aimed at detecting suspicious  
20 orders, and we looked at it today, was drafted --  
21 well, the version 2 is what we have here today,  
22 and that was in April of -- April 9, 2015 is when  
23 that first became effective; right?  
24 A. Which one would be the exhibit that we  
25 would be referring to?

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1 Q. It's Exhibit 18.  
2 A. Yes. This is version 2.  
3 Q. And we've established here today that  
4 that's the first written policy that HBC had in  
5 place that was focused on meeting the requirement  
6 under Section 1310.74(b) of monitoring suspicious  
7 orders; correct?  
8 MR. KOBRIN: Object to form.  
9 THE WITNESS: Are we talking April 9,  
10 2015?  
11 BY MR. HUDSON:  
12 Q. Yes.  
13 A. I believe there may have been something  
14 prior to that timeframe.  
15 Q. We agree that there may be a version 1  
16 effective August 1 of 2014; right?  
17 A. Yes.  
18 Q. But you agree that between November of  
19 2009 and August 1, 2014, HBC was a distributor of  
20 Schedule III controlled substances including  
21 hydrocodone combination products, and it did not  
22 have a written policy or procedure specifically  
23 focused on complying with the requirements of  
24 1310.74(b); correct?  
25 A. There were procedures in place. In a

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1 formalized written form, no, that I know of.  
2 Q. So you agree that the first written  
3 policy that was in place was on August 1, 2014  
4 even though HBC had been acting as a distributor  
5 of opioids for almost four years?  
6 MR. KOBRIN: Object to form.  
7 THE WITNESS: To my knowledge.  
8 BY MR. HUDSON:  
9 Q. And counsel in asking you questions  
10 didn't present you with any other written policies  
11 that we hadn't looked at; right?  
12 A. No.  
13 Q. In fact, you've been asked today to  
14 testify about other policies at the retail level  
15 or the corporate level or other levels of Giant  
16 Eagle, but here today when HBC's counsel had an  
17 opportunity to depose you, they didn't show you  
18 any written policies, correct, any new written  
19 policies; right?  
20 A. No.  
21 Q. So in terms of your testimony, what  
22 you're saying is they were there, but there's  
23 nothing as you sit here today that you can point  
24 to and tie together a specific written policy that  
25 existed and then show that that had an impact of

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1 reducing diversion at Giant Eagle in terms of data  
2 or other processes in place where Giant Eagle was  
3 trying to track its effectiveness at preventing  
4 diversion; is that fair?  
5 MR. KOBRIN: Object to form.  
6 THE WITNESS: A lot of information  
7 there. Can you -- I'm not quite following the  
8 question.  
9 BY MR. HUDSON:  
10 Q. Sure. You were asked questions about  
11 policies that exist at the retail level and, for  
12 example, things that pharmacists did to try to  
13 prevent diversion; right?  
14 A. Yes.  
15 Q. And you said -- you testified, I think,  
16 BOLO was one of the initiatives. I think you said  
17 working with the DEA or local law enforcement;  
18 right?  
19 A. Correct.  
20 Q. You said that in your mind, you can  
21 actually recall some instances where that led to  
22 prescriptions not being filled; right?  
23 A. Yes.  
24 Q. How many?  
25 MR. KOBRIN: Object to form.

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1 THE WITNESS: I can't put a definite  
2 number to it, but it was quite a few.  
3 BY MR. HUDSON:  
4 Q. Were they in Ohio?  
5 A. Yes, they were.  
6 Q. Were any in Ohio?  
7 A. Yes, they were. I'm sorry.  
8 Q. Which stores in Ohio?  
9 A. Did you say mainly in Ohio?  
10 Q. No. Were some in Ohio?  
11 A. Some were in Ohio, yes.  
12 Q. And you prepared for eight hours for  
13 this deposition; right?  
14 A. Yes.  
15 Q. In your eight hours of preparation for  
16 this deposition, can you tell us about any of the  
17 specific instances where there were Giant Eagle  
18 initiatives aimed at preventing diversion where  
19 you can show that, in fact, prescriptions weren't  
20 filled or orders were stopped?  
21 MR. KOBRIN: Hold on. You want to know  
22 what he did in his eight hours of deposition prep?  
23 MR. HUDSON: No.  
24 MR. KOBRIN: I mean, you're getting --  
25

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1 BY MR. HUDSON:  
2 Q. Do you understand my question, sir?  
3 MR. KOBRIN: Ty, I'm just objecting.  
4 You're getting close to privileged information.  
5 I'd like you to clarify what you want him to tell  
6 you here or I'm going to tell him not to answer.  
7 BY MR. HUDSON:  
8 Q. I'm saying you prepared for the  
9 deposition for eight hours; correct?  
10 A. I did.  
11 Q. And in doing so, you reviewed  
12 documentation; right?  
13 A. Yes.  
14 Q. You thought through the questions that  
15 were going to be asked in this deposition; right?  
16 A. Yes.  
17 Q. My question is: In all the preparation  
18 that you did, have you been able to identify any  
19 of the specifics where there were Giant Eagle  
20 controls in place that actually led to avoiding  
21 the diversion of controlled substances?  
22 A. I think so, yes.  
23 Q. Tell me what these specific instances  
24 are.  
25 A. Situations where, you know, based upon

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1 information either through a BOLO or a pharmacist  
2 getting what he felt was a bad -- he or she felt  
3 was a prescription that was not valid, would have  
4 refused to fill it.  
5 MR. KOBRIN: Ty, I'm going to interrupt  
6 real quick and make an objection. Everything he  
7 reviewed and that he looked at, even if he can't  
8 recall it now, we have produced to you and you  
9 have.  
10 So if he did see something, and I don't know  
11 exactly what he's speaking about, but if he did  
12 see something and there were documents related to  
13 these exact incidents that he's talking about, you  
14 have them.  
15 MR. HUDSON: That's fine. I don't know  
16 whether that's an objection.  
17 MR. KOBRIN: I don't want you to tell  
18 him what documents he looked at yesterday. It's  
19 work product.  
20 MR. HUDSON: I'm not asking him that.  
21 MR. KOBRIN: Well, you're getting very  
22 close to asking him that, Ty. You're telling him  
23 what incidents are you talking about.  
24 BY MR. HUDSON:  
25 Q. Mr. Chunderlik, as you sit here today,

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1 can you tell us the store where diversion was  
2 prevented by Giant Eagle controls?  
3 MR. KOBRIN: If you can recall.  
4 THE WITNESS: I can't recall a specific  
5 store.  
6 BY MR. HUDSON:  
7 Q. Can you remember a year when those  
8 efforts led to preventing diversion?  
9 A. I could -- for the timeframe that I was  
10 part of the compliance team, it could have ranged  
11 from 2012 all the way to the present.  
12 Q. Anything more specific you can say?  
13 A. Not specifically I can't, no.  
14 Q. The DEA never specifically told you that  
15 you're in -- that Giant Eagle or HBC is in  
16 compliance with the suspicious order monitoring  
17 requirements of the Controlled Substances Act;  
18 correct?  
19 MR. KOBRIN: Object to form.  
20 THE WITNESS: We were approved as a  
21 registrant. The DEA had been into our facility  
22 several times to do inspections. And upon  
23 inspection, we were never apprized of anything  
24 like that.  
25

<p style="text-align: right;">Page 294</p> <p>1 BY MR. HUDSON:</p> <p>2 Q. Are you aware of any time that the DEA</p> <p>3 conducted an investigation specifically to</p> <p>4 determine whether or not HBC was in compliance of</p> <p>5 the monitoring requirements of the Controlled</p> <p>6 Substances Act?</p> <p>7 A. It never came up in any of the</p> <p>8 inspections that I know of.</p> <p>9 Q. Right. What I'm getting at is we can't</p> <p>10 say one way or the other the DEA's view specific</p> <p>11 to HBC's monitoring of suspicious orders of</p> <p>12 controlled substances. It's just never something</p> <p>13 that the DEA every evaluated one way or another.</p> <p>14 MR. KOBRIN: Object to form. You're</p> <p>15 asking him to --</p> <p>16 BY MR. HUDSON:</p> <p>17 Q. Is that fair?</p> <p>18 MR. KOBRIN: Object to form. He can't</p> <p>19 speak to what the DEA was evaluating or what their</p> <p>20 intent was.</p> <p>21 MR. HUDSON: Sure, he can. He</p> <p>22 interacted with the DEA. He's testified that he</p> <p>23 did.</p> <p>24 MR. KOBRIN: I don't think he's going to</p> <p>25 testify to what the DEA's intent was when it did</p>	<p style="text-align: right;">Page 296</p> <p>1 maybe it was 10 or 20 or maybe even greater than a</p> <p>2 hundred, and I think you said possibly more than a</p> <p>3 hundred investigations. Does that sound right?</p> <p>4 A. In relation to?</p> <p>5 Q. Investigations of flagged orders of</p> <p>6 controlled substances at HBC.</p> <p>7 A. Yes.</p> <p>8 Q. If you had a system for documenting</p> <p>9 those investigations, when you were sitting here</p> <p>10 today, you wouldn't be speculating about whether</p> <p>11 it's 10 or 20 or greater than a hundred; right?</p> <p>12 A. I would say that's correct, yes.</p> <p>13 Q. And you agree with me that HBC did start</p> <p>14 documenting those investigations in 2017?</p> <p>15 A. Yes.</p> <p>16 Q. I guess technically it would be Giant</p> <p>17 Eagle started documenting those investigations in</p> <p>18 2017; right?</p> <p>19 So if I asked you the same question about the</p> <p>20 number of investigations that occurred in 2017 or</p> <p>21 2018 at the Giant Eagle distribution facility, you</p> <p>22 would point me to the repository that exists, and</p> <p>23 we'd be able to determine the exact number; right?</p> <p>24 A. That's correct.</p> <p>25 Q. Now, in terms of pharmacists trying to</p>
<p style="text-align: right;">Page 295</p> <p>1 specific things with DEA. You can depose the DEA.</p> <p>2 BY MR. HUDSON:</p> <p>3 Q. You've testified here today that you're</p> <p>4 aware of DEA inspections; right?</p> <p>5 A. Yes.</p> <p>6 Q. And you're saying you were personally</p> <p>7 involved in those?</p> <p>8 A. I was not at the facility when those</p> <p>9 took place.</p> <p>10 Q. So you have no -- do you have any</p> <p>11 knowledge of whether or not the DEA was</p> <p>12 specifically investigating whether or not HBC was</p> <p>13 in compliance with the distributor requirements of</p> <p>14 the Controlled Substances Act?</p> <p>15 A. I don't know that that was ever part of</p> <p>16 their investigation at the HBC facility.</p> <p>17 Q. So to your knowledge, you have -- let me</p> <p>18 ask it this way: You have no knowledge of the DEA</p> <p>19 ever investigating whether HBC was in compliance</p> <p>20 with the distributor requirements of the</p> <p>21 Controlled Substances Act?</p> <p>22 A. That's correct.</p> <p>23 Q. You were asked about investigations, and</p> <p>24 you said investigations that occurred and I think</p> <p>25 it was between 2009 and 2014. I think you said</p>	<p style="text-align: right;">Page 297</p> <p>1 prevent diversion, is there any specific criteria</p> <p>2 that you're aware of that the pharmacists were</p> <p>3 applying to try to figure out whether or not the</p> <p>4 pharmacies -- the prescriptions that were seeking</p> <p>5 to be filled were legitimate or not?</p> <p>6 A. That was part of our controlled</p> <p>7 substance dispensing guideline communicated to the</p> <p>8 pharmacists.</p> <p>9 Q. Sure. And was the guideline or the</p> <p>10 principle at Giant Eagle to give the pharmacists</p> <p>11 discretion to apply their professional judgement</p> <p>12 in each situation?</p> <p>13 A. That is correct.</p> <p>14 Q. So there wasn't any particular criteria</p> <p>15 that were universally applied by pharmacists</p> <p>16 across all 200 different stores, is that fair, to</p> <p>17 your knowledge, if you know?</p> <p>18 A. They all had the controlled substances</p> <p>19 dispensing guideline that had that information in</p> <p>20 there. They all had access to that.</p> <p>21 Q. Right. But in terms of a criteria to</p> <p>22 apply, there was a deference to the professional</p> <p>23 judgment of each pharmacist?</p> <p>24 A. Each situation could be different and</p> <p>25 that was -- I would say yes, that's correct.</p>

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1 Q. You were asked some questions about why  
2 policies were not put in writing, and I think you  
3 said if it's law, then it's just not put into a  
4 policy; right?  
5 MR. KOBRIN: Object to form. Misstates  
6 the testimony.  
7 BY MR. HUDSON:  
8 Q. Did I get that right? What was your  
9 point, I guess, or what was --  
10 A. We don't necessarily take -- we don't  
11 necessarily take law to input it into a policy.  
12 Q. Got it. But you actually did that at  
13 HBC; right? You just didn't do it until August of  
14 2013.  
15 MR. KOBRIN: Object to form.  
16 THE WITNESS: We put steps in to comply  
17 with the law.  
18 BY MR. HUDSON:  
19 Q. Right. And specific to the suspicious  
20 order monitoring, that happened either on  
21 August 1, 2014 or April 9, 2015 depending on  
22 whether version 1 or version 2 of that policy  
23 existed; is that fair?  
24 A. Yes.  
25 Q. But there was nothing that prevented HBC

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1 from putting a policy like that in place in  
2 November of 2009 when it started acting as a  
3 distributor of controlled substances, was there?  
4 A. No, there was not.  
5 Q. And the same for documenting  
6 investigations, that's something that HBC -- I'm  
7 sorry; I keep saying HBC -- Giant Eagle started  
8 doing in 2017, right, and created a repository to  
9 put those investigations?  
10 A. Yes.  
11 Q. Same. There's nothing that would have  
12 prevented HBC from doing that from 2009 to 2014 at  
13 the time that it was acting as a distributor of  
14 Schedule III through V controlled substances;  
15 right?  
16 MR. KOBRIN: Object to form.  
17 THE WITNESS: Not that I know of.  
18 BY MR. HUDSON:  
19 Q. And during the time that HBC acted as a  
20 distributor of hydrocodone combination products,  
21 so from November of 2009 to October of 2014, there  
22 were no shipments of those HCPs that were flagged  
23 and stopped from shipping to the Giant Eagle  
24 retail pharmacies; correct? In other words -- let  
25 me ask it a different way. I'll try to make this

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1 more clear.  
2 Between November of 2009 and October of 2014,  
3 HBC never stopped the shipment of a hydrocodone  
4 combination product that was going from the HBC  
5 warehouse to the Giant Eagle retail pharmacies  
6 because it believed that it was at risk for  
7 diversion?  
8 MR. KOBRIN: Object to form. Misstates  
9 the evidence.  
10 THE WITNESS: I don't believe so, no.  
11 BY MR. HUDSON:  
12 Q. Right. Because even the two orders that  
13 got reported to the DEA, those were still shipped;  
14 right?  
15 A. Yes, they were.  
16 Q. And so at least for the time period  
17 between November of 2009 and October of 2014,  
18 there was no mechanism at the HBC warehouse where  
19 HBC could stop the shipment of a controlled  
20 substance because it was at risk for diversion?  
21 MR. KOBRIN: Object to form.  
22 BY MR. HUDSON:  
23 Q. In an automated way.  
24 A. That's correct.  
25 MR. HUDSON: I don't have any further

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1 questions.  
2 RE-EXAMINATION  
3 BY MR. KOBRIN:  
4 Q. Do you have the exhibit that relates to  
5 the order in 2016 that was reported to the DEA?  
6 A. Do you have a number on that, Josh?  
7 Q. The DEA 2016 packet of documents. If  
8 you look at Exhibit No. 15. Looking at  
9 Exhibit 15, this is about the 2016 order. If you  
10 look at your email on January 15, 2016, although  
11 it was an automated block, what are you telling  
12 Mr. Remas in your email of January 15, 2016?  
13 You might want to look to Joseph Millward's  
14 email, the prior email, to get the context.  
15 A. I was communicating to Kris Remas in the  
16 procurement department to block orders, any  
17 further orders for this item.  
18 Q. It's not just one item, is it? It's  
19 more than one item; right?  
20 A. For these items I should say.  
21 Q. Those are all buprenorphine-containing  
22 products?  
23 A. Yes.  
24 Q. And that happened the same day as the  
25 order got flagged; is that right?



<p style="text-align: right;">Page 302</p> <p>1 A. That looks to be -- yes; that is</p> <p>2 correct.</p> <p>3 Q. So no more buprenorphine-containing</p> <p>4 products went to that pharmacy. And you guys</p> <p>5 still had control over the</p> <p>6 buprenorphine-containing products that went to the</p> <p>7 pharmacy that morning through the Giant Eagle</p> <p>8 pharmacy; isn't that correct?</p> <p>9 A. I'm sorry, Josh. Can you repeat your</p> <p>10 question.</p> <p>11 Q. The order that went to the Giant Eagle</p> <p>12 pharmacy that morning, Giant Eagle still had</p> <p>13 control over that order, the product that went in</p> <p>14 that order because it went to a Giant Eagle</p> <p>15 pharmacy?</p> <p>16 A. That is correct, yes. We did have</p> <p>17 control of that order.</p> <p>18 Q. The 2013 suspicious order that was</p> <p>19 reported to the DEA, did you see the documentation</p> <p>20 on that today?</p> <p>21 A. I don't recall if that was part of the</p> <p>22 documentation that I reviewed today.</p> <p>23 Q. So you didn't actually review any</p> <p>24 documents showing that that didn't stop the order?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 304</p> <p>1 Q. Opposing counsel talked to you about</p> <p>2 record keeping.</p> <p>3 A. Yes.</p> <p>4 Q. And if you had logs, you could have</p> <p>5 counted all the times that you followed up on</p> <p>6 those flagged orders.</p> <p>7 A. Yeah.</p> <p>8 Q. But we do have a record of all those</p> <p>9 flagged orders, don't we?</p> <p>10 A. We do.</p> <p>11 Q. We have the record in the logs; correct?</p> <p>12 We looked at some of those logs today. In fact,</p> <p>13 opposing counsel showed you the October 2014 log</p> <p>14 or something like that.</p> <p>15 A. We have the log.</p> <p>16 Q. We have all those logs going all the way</p> <p>17 back to the beginning of the monitoring system,</p> <p>18 don't we?</p> <p>19 A. Yes, we do.</p> <p>20 Q. So we do have records from that system,</p> <p>21 don't we?</p> <p>22 A. Yes, we do.</p> <p>23 Q. Or Giant Eagle does have records from</p> <p>24 that system, doesn't it?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 303</p> <p>1 Q. Do you know right now as you sit here</p> <p>2 today without looking at that document that it</p> <p>3 didn't stop the order in 2013? Do you know that?</p> <p>4 A. I don't know that.</p> <p>5 Q. Thank you. One moment.</p> <p>6 Have you read the Controlled Substances Act</p> <p>7 and its regulations?</p> <p>8 A. Yes.</p> <p>9 Q. Have you read and analyzed all the</p> <p>10 policies that we discussed earlier on redirect,</p> <p>11 all the Giant Eagle policies that we discussed</p> <p>12 earlier on redirect?</p> <p>13 A. Yes.</p> <p>14 Q. Are you familiar, very familiar I would</p> <p>15 say -- are you very familiar with those policies</p> <p>16 from Giant Eagle?</p> <p>17 A. Yes.</p> <p>18 Q. Opposing counsel didn't show you any of</p> <p>19 those policies today?</p> <p>20 A. I don't believe so.</p> <p>21 Q. He didn't show you any of those other</p> <p>22 procedures that he asked about today and just</p> <p>23 asked you about on redirect? He didn't show you</p> <p>24 any of those procedures or policies today, did he?</p> <p>25 A. I don't believe so.</p>	<p style="text-align: right;">Page 305</p> <p>1 Q. Thank you, Mr. Chunderlik.</p> <p>2 RE-EXAMINATION (Continued)</p> <p>3 BY MR. HUDSON:</p> <p>4 Q. Just a couple quick questions.</p> <p>5 We've got the logs that show the suspicious</p> <p>6 orders that were exceeding thresholds; right?</p> <p>7 That's what we have here today.</p> <p>8 A. The orders that were exceeding</p> <p>9 thresholds.</p> <p>10 Q. We just don't have any of the documents</p> <p>11 that show whether or not HBC did or didn't go and</p> <p>12 investigate each and every one of them; right?</p> <p>13 MR. KOBRIN: Object to form.</p> <p>14 THE WITNESS: Yes.</p> <p>15 BY MR. HUDSON:</p> <p>16 Q. And then in terms of the orders that</p> <p>17 were stopped, at most it was two orders of</p> <p>18 buprenorphine, right, if they were, in fact,</p> <p>19 stopped? There may or may not have been two</p> <p>20 orders of buprenorphine that were stopped. Those</p> <p>21 are individual shipments; right?</p> <p>22 A. Individual shipments.</p> <p>23 Q. That's out of tens of thousands of</p> <p>24 shipments of opioids to more than 200 different</p> <p>25 stores in five different states; right?</p>

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1 MR. KOBRIN: Object to form.  
2 THE WITNESS: Yes.  
3 MR. HUDSON: No further questions.  
4 THE VIDEOGRAPHER: The time is 5:38 p.m.  
5 This concludes this video deposition.  
6 (Whereupon, at 5:38 p.m., the taking of  
7 the instant deposition ceased.)  
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1 COMMONWEALTH OF PENNSYLVANIA )  
2 COUNTY OF ALLEGHENY ) SS:  
3 C E R T I F I C A T E  
4 I, Ann Medis, Registered Professional  
5 Reporter, Certified Livenote Reporter and Notary  
6 Public within and for the Commonwealth of  
7 Pennsylvania, do hereby certify:  
8 That GEORGE CHUNDERLIK, the witness  
9 whose deposition is hereinbefore set forth, was  
10 duly sworn by me and that such deposition is a  
11 true record of the testimony given by such  
12 witness.  
13 I further certify the inspection,  
14 reading and signing of said deposition were not  
15 waived by counsel for the respective parties and  
16 by the witness.  
17 I further certify that I am not related  
18 to any of the parties to this action by blood or  
19 marriage and that I am in no way interested in the  
20 outcome of this matter.  
21 IN WITNESS WHEREOF, I have hereunto set  
22 my hand this 21st day of January, 2019.  
23  
24 \_\_\_\_\_  
25 Notary Public

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1 COMMONWEALTH OF PENNSYLVANIA ) E R R A T A  
2 COUNTY OF ALLEGHENY ) S H E E T  
3  
4 I, GEORGE CHUNDERLIK, have read the foregoing  
5 pages of my deposition given on January 16, 2019,  
6 and wish to make the following, if any,  
7 amendments, additions, deletions or corrections:  
8  
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18  
19 In all other respects, the transcript is true and  
20 correct.  
21  
22 \_\_\_\_\_  
23 GEORGE CHUNDERLIK  
24 \_\_\_\_\_  
25 day of \_\_\_\_\_, 2019.  
26 \_\_\_\_\_  
27 Notary Public